S. Hrg. 101-1098

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

H.R. 5311

AN ACT MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND OTHER ACTIVITIES CHARGEABLE IN WHOLE OR IN PART AGAINST THE REVENUES OF SAID DISTRICT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1991, AND FOR OTHER PURPOSES

Board of Education
Committee on Public Education
Council of the District of Columbia
Court of Appeals
Crime and Drugs in the District of Columbia
D.C. Court System
D.C. Public Schools
Department of Corrections
Nondepartmental witnesses
Office of the Mayor
Supperior Court of the District of Columbia

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DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

WEDNESDAY, MAY 16, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Brock Adams (chairman) presiding.

Present: Senators Adams and Gramm.

DISTRICT OF COLUMBIA

CRIME AND DRUGS IN THE DISTRICT OF COLUMBIA

STATEMENT OF STERLING TUCKER, DRUG POLICY DIRECTOR, DISTRICT OF COLUMBIA

ACCOMPANIED BY:
- ISAAC FULWOOD, JR., CHIEF OF POLICE
- WALTER RIDLEY, DIRECTOR, DEPARTMENT OF CORRECTIONS
- PETER PARHAM, DIRECTOR, DEPARTMENT OF HUMAN SERVICES
- DR. ANDREW JENKINS, SUPERINTENDENT, DISTRICT PUBLIC SCHOOLS
- PAUL WOODARD, DIRECTOR, DEPARTMENT OF RECREATION AND PARKS
- DR. GEORGES BENJAMIN, COMMISSIONER, PUBLIC HEALTH
- JOHN JACKSON, DIRECTOR, ADMINISTRATION ON ALCOHOL AND DRUG ABUSE

OPENING REMARKS

Senator ADAMS. The committee will come to order.

I welcome all of our witnesses here this morning, some I have known a long time, some are new acquaintance. I welcome you all here.

This is a very important hearing. I might state before I make my formal statement outlining the purposes of the hearing, my informal statement is this, that last year in the Appropriations Committee, the District of Columbia Subcommittee, in particular, we emphasized the appropriation of money above and beyond the money that had been requested from the District for the particular purpose of fighting the drug mayhem that was occurring upon the streets of Washington, DC.

I am personally disturbed to read articles that indicate that either equipment is not available, personnel is not available, or that something has happened along the way. That is the reason for holding this hearing at this point. It is an oversight hearing on last year's appropriation, the committee wants to hear where we are, where the money was spent, why we either are or are not achieving the results.

I appreciate Mr. Tucker and the chief being here this morning to give us this explanation.

I might state that next week we will be starting hearings on this year's appropriation bill, but as old budget chairman, I do not think it is very appropriate to start on a new budget year until we find out how well we did last year. Some of the questions this morning may be difficult, they may be pointed. They are not intended to be embarrassing at all. They are intended to bring out the facts of what has occurred because the ranking minority member, Senator Gramm, and I had a bipartisan approach to appropriate money to stop the drug mayhem on the streets and also to start trying to treat those who were affected.

In the fiscal year 1990 District of Columbia appropriations bill, the Congress appropriated nearly $32 million for drug enforcement, treatment, and prevention. We provided funds to add 700 new police officers to the Metropolitan Police Department and we want to know how many have been added and when the full complement will be on board.

We are aware that the District of Columbia also added additional officers from its own funds and we are aware of the fact that officers retire, as well as being hired, but we were aiming between us for a net increase of 1,000 officers to try to bring peace to the streets of the Nation's Capital.

We included in last year's budget over $2 million to begin a program of treatment on demand for pregnant drug abusers.

According to the District's Office of Drug Abuse Policy, there are approximately 2,000 infants born in the city annually whose mothers abuse drugs during their pregnancy.

This represents 10 percent of all of the hardcore addicts in the District based on data recently published by the Senate Judiciary Committee. No group is a higher priority for treatment than pregnant drug abusers.

There have been recent signs that there may be cause for hope. Adult arrestees testing positive for drugs are down, according to the public press.

The District's homicide rate seems to be slowing, though I must admit that I am confused and I hope the chief of police and others will comment on this, that we are having more homicidal type assaults, though we may have fewer deaths. Now that, of course, is no game. The fact that somebody happens to miss somebody does not mean that we have improved the basic situation. So we would like a comment on that.

We are having some slowing again according to reports, in the emergency room. The mention of drugs is down 13 percent. Yet juvenile arrests for drug offenses has shifted from possession to arrests for sales.

We are pleased to welcome today the District's Drug Policy Director, Sterling Tucker, who is accompanied by Police Chief Isaac Fulwood; Director of Department of Human Services, Peter Parham; Dr. Andrew Jenkins, the Superintendent of the District

Public Schools; and, Mr. Paul Woodard, Director of the Department of Recreation and Parks.

We look forward to your testimony this morning and in particular to answers to the questions that I have posed and I am certain will be posed by my colleagues.

Now, for purposes of an opening statement, I would turn to my colleague, Senator Gramm of Texas.

Senator?

OPENING REMARKS OF SENATOR PHIL GRAMM

Senator **Gramm**. Thank you, Mr. Chairman.

I want to thank the witnesses for coming today. I am going to be shifting back and forth between the hearing here and the hearing around the corner on the space program.

I am eager to hear what you have to say. I think like everyone else who is working on the budget of the District of Columbia that I am concerned about our apparent lack of success in the area of trying to fight and win the war on drugs in the District of Columbia.

Now I do not want to get into any kind of frontal assault on this issue of local control, but I do believe there is a problem.

As many of you are aware, I offered on the floor of the Senate an amendment mandating within the Federal jurisdiction here in the District of Columbia mandatory sentencing, 10 years in prison without parole for anyone who sells drugs to a minor no matter who their daddy is or no matter how society may have done them wrong.

We have in a provision that has now been adopted by the Senate mandatory sentencing for people who use firearms and the death penalty for drug murderers.

I believe that we need stronger tools in the District of Columbia. I do not want to get into the business of trying to be Mayor of the District of Columbia, but I think somebody has got to do this job. As I look at your budget priorities, I do not see them reflect what I believe the budget priorities of the people of the District of Columbia to be.

When we have about 1,000 city employees for every square mile, which is higher than the population density of many States, and yet we cannot maintain law and order and protect human life, we are not doing a good job spending our money.

I want to assure you that if you are not capable of doing it that the Constitution is very clear about the fact that exclusive legislative jurisdiction within the Federal city shall be vested in the U.S. Congress.

So that if it is clear that the job is not being done, I for one intend to see that Congress vote to set out some guidelines as to what percentage of your budget, if we are going to contribute to it—that is we being the taxpayers of Texas and the rest of the country—how much of it is going to law enforcement.

If you are not willing to have mandatory sentencing, if you are not willing to look at the death penalty, since it is the Congress' responsibility under the Constitution to exercise legislative responsibility within the District of Columbia, then we are going to have Congress vote on it.

Now I cannot prejudge how 51 Members of the Senate are going to vote, but I think if you look at the vote the other day on the death penalty that there is strong support in the Congress, strong support at least in this case in the Senate, for beginning to get tougher on the people that have made the Nation's Capital a very dangerous place to be.

I think these are things we have got to deal with. I think that it is a national embarrassment that the Nation's Capital leads the Nation in so many of these problem areas with all of the resources we have, with the wealth of the District of Columbia, with the tax base which is in fact being used at a very heavy level in terms of very high taxes, very high expenditures per capita in the District of Columbia, there is in my opinion no reason that we are not getting better results.

So I want to work with you. I want to try to help you get better results and that is the reason I am here today.

I thank you, Mr. Chairman.

Senator **Adams**. Thank you, Senator Gramm.

Mr. Tucker, the committee welcomes you here and looks forward to hearing your statement.

Mr. **Tucker**. Thank you very much, Mr. Chairman; Senator Gramm.

INTRODUCTION OF ASSOCIATES

We are pleased to be here today. In addition to the persons named, also we have Mr. Walter Ridley, who is the Director of our Department of Corrections, and for the Department of Human Services, we have Dr. Georges Benjamin, who is the Commissioner of Public Health, and Mr. John Jackson, who is the Director of the Alcohol and Drug Abuse Services Administration. I believe everyone else was named who is here.

OPENING STATEMENT OF DRUG POLICY DIRECTOR STERLING TUCKER

Mr. Chairman, we appreciate this opportunity to share with you where the District is in its fight against drugs and crime.

What I would like to do, sir, is to present my testimony in several parts, first to respond to the status of the initiatives from the Congress with reference to the budget of last fiscal year. Then I would like to speak briefly about other initiatives that are underway in the Government and in the community so that we can have perhaps a little broader picture of where we are in the District, and then talk perhaps a minute about the direction where we believe we are headed.

My colleagues here then are available to respond to any questions which the committee may have in these or other subject areas that you may wish to address.

Senator **Adams**. Thank you.

Mr. **Tucker**. With reference to the congressional initiatives, the first initiative I would like to address is the 700 police officers that are to be hired.

At present, the Metropolitan Police Department has—and I am going to be summarizing my statement, Mr. Chairman.

PREPARED STATEMENT

Senator ADAMS. Without objection, your entire statement will appear in the record, Mr. Tucker, and you may summarize it as you proceed.

[The statement follows:]

STATEMENT OF STERLING TUCKER

I would like to thank the Senate Appropriations Committee for inviting us to appear before you today. I applaud the Chair and the Committee for your progressive views and actions in working with us to reduce drug abuse and its effects in our Nation's Capital.

Appearing with me today are Isaac Fulwood, Chief of the Metropolitan Police; Peter Parham, Director of the Department of Human Services; Paul Woodard, Director of the Department of Recreation and Parks; and Dr. Andrew Jenkins, Superintendent of D.C. Public Schools. Several other agency heads are also here to respond to any questions you may have during the course of these hearings.

I would like to give you a very brief overview of the District's antidrug activities. Then, I will update you on the congressional initiatives that are so valuable to our efforts, and I'll close with a few thoughts for the future.

OVERVIEW

I am now convinced that the District of Columbia communities, businesses, nonprofit organizations, schools, religious organizations, local government, and the Federal Government are joining together in a determined effort to win this war on drugs.

It is no secret that the Federal Government and the local government of Washington, DC, were at odds with one another. I am pleased to report that we are now working cooperatively with the Federal Government on several fronts. Federal antidrug czar William Bennett and I reported on numerous joint Federal-local initiatives in our April 13, 1990, meeting. I would like to submit for the record here today a summary of the District's antidrug activities that we prepared for that April meeting.

I am especially pleased by joint MPD-U.S. Drug Enforcement Agency and FBI task forces. These teams are working together to crack down on drugs. A substantial number of seizures have been made this year and last year in cash, in vehicles, illegal drugs, real property, weapons, and other assets. This is the kind of Federal-local partnership we all have been seeking. Of the assets seized, the District has realized in available funds approximately $4 million.

On the demand side of the equation, we expect to be able to announce soon the location of a new state-of-the-art residential drug treatment facility, made possible by our renewed Federal-local partnership.

We are not only receiving high quality assistance from the Federal Government, but we are receiving top-level guidance from leading citizens and business people throughout our city and region. Our strategy teams, which examined five antidrug subject areas, have recently completed their detailed reports and recommendations, and I would like to submit their reports for the record as well.

Policies alone will not win the war against drugs. That is why I am gratified to see communities and government working together to reclaim their streets. At the community level, at least 30 community patrols involving over 100 organizations are demonstrating a strong, visible presence against drug trafficking and abuse in the D.C. neighborhoods.

Last November, the District's Drug Control Policy Office brought together 14 Operation Fightback agencies and the D.C. National Guard to launch "Reclaiming Our Streets"—a massive government intervention and community mobilization program in the Valley Green area of the 7th Police District. Coordinated through the Office of Emergency Preparedness, this program was designed in four stages. (1) Police sweeps—to clear the streets of drug traffickers and open-air drug markets; (2) bricking-up of crack houses—and other environmental clean-up activities, such as towing abandoned vehicles and replacing streets lights; (3) a coordinated D.C. Government strike force—to focus on human service needs such as drug treatment, job development, recreational activities, and educational opportunities to residents; and (4) a community-mobilization campaign—to involve local citizens in the care and protection of their neighborhoods. The April report that I submitted for the record details the arrests, the boarding-up of crack houses, and other accomplishments in Valley Green. On May 1, we announced that "Reclaiming Our Streets" would begin in the second target area—in the Rosedale-Langston area of the District. We intend to repeat the successes of Valley Green in all nine target areas as quickly as feasible. However, those funds are not as yet available to us.

In less than 2 weeks, I will be able to announce the initiation of the "Not On My Block" program. In this program, residents of each participating block join together in crime prevention, educational, recreational, and community involvement activities. Thus far, 250 blocks have signed on, and we would like to see the entire community organized in this manner.

We are reaching out to some 14,000 youths a year through our Department of Recreation and Parks to provide prevention and referral types of services. We continue to lead the Nation, per capita, in year-round and summer jobs funded through local tax dollars. We will also have added 1,000 new outpatient drug treatment slots and 150 new inpatient beds by the end of the fiscal year.

Are these and other numerous efforts detailed in my report having an impact? While it may be a little early to say that we have turned the corner, I do see some most encouraging signs. In fact, Dr. Bennett has recently stated that he is (and I quote) "unaware of any other city in the country that shows comparable proportional declines" in positive drug tests of arrestees. We are seeing declines in drug use as well in testing of parolees and in residents of halfway houses, as well as in testing of those who are incarcerated in prison or who are detained at the D.C. Jail. Mentions of positive tests of drug use at area hospitals also have declined. In other words, in all of our categories of drug testing, we are seeing significant declines, often by several percentage points. We believe our actions, along with those of the community and the Federal Government are starting to have a favorable impact.

CONGRESSIONAL INITIATIVES

I would like now to turn to those special initiatives that Congress funded in last year's appropriations bill. At the outset, I would also like to note to the members of the committee that the District Government lost 2 months' time before it could begin obligating funds in the 1990 budget due to the President's veto over the abortion issue. This delay set back the District's efforts to commit funds—particularly in the Department of Human Services where the substance abuse program for pregnant mothers involved several contractors. Despite the delay, I am able to report real progress to you.

700 POLICE OFFICERS

The first initiative I would like to address is the hiring of 700 police officers. At present, the Metropolitan Police Department has 4,358 police officers on board, three above the 4,355 "trigger" required to begin hiring the 700 additional police officers authorized by Congress last year, and 300 above personnel levels in fiscal year 1989. In recent months, MPD has been averaging approximatley 100 new recruits a month despite increased recruiting competition from police departments in neighboring jurisdictions and heavy scheduled retirements. I know of no other police department in the country that is hiring at a faster rate than we are at this time. Recruitment, testing, background checks and training are all proceeding at the most rapid feasible rate, consistent with maintaining high standards of quality in the MPD force. To date, MPD has obligated $1.3 million of the available $17 million for the additional police officers.

SUBSTANCE ABUSE PROGRAM FOR PREGNANT MOTHERS

The second initiative is the Substance Abuse Program for Pregnant Women. This program is now underway. $1.2 million of the $2.02 million appropriated for fiscal year 1990 has already been obligated. Two of the current 8 slots under contract have been filled with 10 more slots expected to be under contract by the middle of June. All 23 residential beds should be available for occupancy by the end of June. This residential drug treatment program is supported by a variety of related services that are part of ADASA's overall effort to provide a continuum of care to pregnant mothers. These services include special outreach activities to high risk groups in public housing, immediate examination by physicians at D.C. General Hospital's prenatal clinic, referral to the ADASA detox center where appropriate, and residential and outpatient placement. I wish to emphasize that there is no waiting list for pregnant mothers seeking out-patient drug treatment.

AFTER-SCHOOL TUTORIAL AND ENRICHMENT PROGRAMS

The third congressional initiative that the Senate appropriated funds for was the After-School Tutorial and Enrichment Programs. All of the $1.34 million appropriated for that program now has been obligated. These tutorial enrichment programs currently involve 40 elementary schools, 10 junior high schools, 8 senior high schools and 5 special population schools. The enrichment programs include such topics as "computer labs," "improving self-image," and "conflict resolution." To date, 5,000 students have been served by the after-school tutorial program; 1,700 have participated in the enrichment program; and another 5,000 are expected to participate in the summer programs.

VISION FOR THE FUTURE

We are now at what I call the end of the beginning. The recommendations of the five strategy teams help provide our vision for the future and our specific strategies to achieve a drug-free District of Columbia.

In the months ahead, the front lines of the drug war will shift from police, prosecutors, judges and prisons to schools, doctors, drug counselors and social workers. The District's ideal goal will be treatment for every person who desires it. The cost is barely tolerable. Nonetheless, we should consider ways to fund this need over time as we examine other top budget priorities of the District. We must also reduce citizen opposition to neighborhood treatment, transition, and after care centers. Our vision is that every sector of our community will own the drug solution even if this means that the local government offers incentives to neighborhoods willing to reach out.

We all recognize that prevention is the best means of reducing demand. We must begin as early as preschool. Of the 2,186 infants delivered at D.C. General Hospital in 1989, 22 percent of their mothers self-reported the use of illicit drugs. If this trend continues, of the 31,000 District children under 4 years of age in 1990, between 4,650 and 6,200 children will have been prenatally exposed to illicit drugs. It is clear, that if our schools are not to be overwhelmed within the next few years, we must design a strong network within our childcare community; and greatly augment our services to these vulnerable children and their families.

In my presentation here today, I have touched on some of the major issues facing us here today. There are hundreds of others I could also discuss involving nearly every facet of government and family and community life. I look forward to discussing any issue or recommendation that you would like to advance during these hearings.

STATUS OF DRUG INITIATIVE PROGRAMS APPROVED IN FISCAL YEAR 1990 BUDGET

Mr. TUCKER. Thank you very much.

At the present, the Metropolitan Police Department has 4,358 police officers on board, 3 above the 4,355 figure required to begin hiring the 700 additional police officers authorized by Congress last year, and 300 above personnel levels in fiscal year 1989.

In recent months, the Metropolitan Police Department has been averaging approximately 100 new recruits a month, in spite of increased recruiting competition from police departments in neighboring jurisdictions and heavily scheduled retirements, as to which you earlier referred.

I frankly know of no other police department in the country that is hiring at a faster rate than we are at this time.

Recruitment, testing, background checks, and training are all proceeding at the most rapid feasible rate, consistent with maintaining high standards of quality in the department and on the force.

To date, the Metropolitan Police Department has obligated $1.3 million of the available $17 million for the additional police officers. As pointed out earlier by you,

Mr. Chairman, as you know, the triggering could not take place until after the 300 policemen were hired from appropriated funds as recommended by the City Council. Those 300 have been hired. We have taken care of the retirements and beyond the retirements, the hiring of the other 700 officers has now been triggered. The $1.3 million of the available $17 million now has been obligated.

With reference to the substance abuse program for pregnant mothers, that was Congress' second initiative. This program is now underway; $1.2 million of the amount appropriated for fiscal year 1990 has been obligated.

We are to have 23 residential beds eventually and by the end of June we expect this to be the case. This spending includes the costs of the drug treatment beds, 10 of which are in an acute care environment and, therefore, somewhat more costly, plus a special intake case management staff to facilitate prompt intake, diagnosis, and problem solving.

Also funded is an evaluation component for the project so that we can make adjustments as necessary.

Also in that program we wish to emphasize that there is no waiting list at all, Mr. Chairman, for pregnant mothers seeking outpatient drug treatment. At this time there is no waiting list. There is no waiting time at the moment. So, in effect, these mothers may get treatment on demand.

The third program funded by the Congress is the After-School Tutorial and Enrichment Program. All of the $1.34 million appropriated for this program now has been obligated. These tutorial enrichment programs currently involve 40 elementary schools, 10 junior high schools, 8 senior high schools, and 5 special population schools.

The enrichment programs include such topics as computer labs, improving self-image, and conflict resolution. To date, 5,000 students have been served by the After-School Tutorial Program; 1,700 have participated in the enrichment program and another 5,000 are expected to participate in the summer programs.

In each of these special appropriation areas, Mr. Chairman, work is underway and we expect to complete all of the requirements under those authorizations either in the fiscal year or in the calendar year.

OTHER DISTRICT PROGRAMS TO FIGHT WAR ON DRUGS

Buttressing much of this work, Mr. Chairman and Senator Gramm, I would like to just highlight a few other things that are going on which we think are significant. You have among the materials that we have distributed, a document prepared in connection with a recent review of actitivities conducted in the District as it relates to the Federal initiative out of Dr. Bennett's office and the District government.

You will see in that document a wide range of programs of more than 17 departments of Government and the National Guard, many initiatives beyond those under the regular appropriations process, including initiatives from the community.

For example, the Metropolitan Police Department has 11 joint efforts with Federal enforcement agencies at this time. The community empowerment policing is underway, a concept and a philosophy of policing which brings the policemen in the neighborhood and the people more close together. The chief has initiated this program already in two of our police districts and it will eventually be a part of all the police districts where the policemen and the community work hand in hand in dealing with a wide range of issues drawing in all the departments of our government to help in the resolution of problems and prevention of crime in our neighborhoods.

The Department of Corrections has also launched an aggressive program in drug treatment. Despite its overcrowding, it is a model program at Lorton and will be expanded in new facilities as they are developed. Many people come to look at this particular program of drug treatment in our correctional facility and it is regarded as a model for the Nation.

The District of Columbia National Guard, from June 1989 through 1990, supported 236 antidrug operations conducted by the Metropolitan Police Department and Bureau of Alcohol, Tobacco, and Firearms.

In treatment, the waiting time, for example, in outpatient treatment now is about 2 weeks. I think that that is probably as good or perhaps better than most metropolitan areas of this country. The waiting time for residential treatment is still too long, 3 to 6 months, and we hope that we can bring that down.

More than 150 new inpatient and residential beds and about 1,000 outpatient treatment slots will be in place by the end of the fiscal year. We are going to have three new state of the art treatment programs by the end of this year in cooperation with the Office of Treatment Improvement of the Federal Government. We are working closely with them so we will be able to take care of many more people in our programs.

There are a number of other major initiatives underway in housing and our public school system. While we identified a few programs operated by the schools, in every school program in our city, through our elementary, junior and senior high schools, we have important initiatives underway in education and information dissemination and we see results there.

RECLAIMING OUR STREETS PROGRAM

You may have read something about our Reclaiming Our Streets effort in the Valley Green area, one section of the city where we have worked. What has happened is we, through our Fight Back agencies, our 14 agencies, and the District of Columbia National Guard, have identified nine communities where we think the problems are greatest. The killings have been in the largest numbers. Crime has been the highest in relation to population density, dropout rates the highest, unemployment the greatest, treatment needs in largest numbers, young people in large numbers, housing is not in the best shape, and substandard housing in all areas of those communities. In other words, where our problems were the greatest we have identified nine communities where we want to concentrate all the services of government, and we have had a very effective mobilization in this regard in the Valley Green area, for example.

What we found when we got in there is that there are no quick solutions to this problem. We found that the problems are considerably greater and the needs considerably greater than we thought. So we had to slow down our activities, organize more fully, and engage more deeply in the issues we found there.

We took out hundreds of abandoned cars, tons and tons of trash; improved street lighting, which was very poor; added additional recreation workers; added additional social service workers; identified the persons who needed jobs and found jobs for 89 percent of those who sought employment; got those into training programs who needed training; put those who came forward who needed treatment at the top of the list, even though there is a waiting list. Those who needed treatment, we put them at the top of the list so that in effect they were able to get treatment on demand. In this community, we worked with the community, and then we were able to organize the neighbors to help maintain that community, and we are immensely proud of what has happened.

We have learned a lot about what can be done. We know, however, we cannot deal with crime and killings and drugs in a vacuum. We have to deal with a whole environment and when that happens, the people respond.

We have now moved to a second area in which we are going to work. The fact is, Mr. Chairman and Senator Gramm, this is very, very expensive, and very time consuming. The fact is at the present rate of the need for this program and the way we have to conduct it, it is not possible to cover all of these neighborhoods with the level of spending now available to us.

We also have community patrols. We are very proud of this; more than 30 patrols with a hundred organizations being involved in these patrols. We are finding that in these communities where the community patrols are operative, these are just good citizens who come out in the nights and weekend night after night, who walk their neighborhoods, with police escorts generally, letting the drug dealers know and those who would purchase drugs in the neighborhoods that they are not welcome. They do not try to do police work. They are simply good citizens wanting to maintain quality in their neighborhoods. I spend each night with two or three of these patrols and these are very good citizens who want their neighborhoods safe and secure.

What we are finding in not just our own data, but from their own stories in fact, we go to corners that used to be inhabited by drug dealers at night, we go there now, we do not find them anymore. The crack houses, many of which have been closed, several hundred of which have been closed, are not open now. We are not saying that we do not still have too many crack houses and we are not saying we do not have too many drug dealers, but we are saying that a lot of the corners where people could not walk, a lot of the streets where people were afraid to pass at night are not that way any more, and our people are feeling very good about it.

This citizen involvement is just one of the real fine indications of a real partnership between the government and the citizens.

The Church Association of Community Services started out with 80 churches of all denominations working together in a whole range of community services, drug fighting activities, family building activities, community service activities. It has now reached 120 churches of our community that are involved in this. The churches have all kinds of programs in the day, at night, and on the weekends. This is a very important component of what we are accomplishing and what we are doing.

NOT ON MY BLOCK PROGRAM

We will be announcing in a couple of weeks a program called Not on My Block. It is a very simple concept. Many people often throw up their hands saying that we cannot do anything about this problem, it is too large, it is too huge, it is too pervasive. We tell them, maybe you cannot do anything about it across the city and maybe you cannot do anything about it across the neighborhood, but we say that we all can do something about the problem in our block.

There are roughly 5,000 city blocks in Washington and the plan through Not on My Block is to find block captains for every block that is organized, provide orientation and training for block captains; work in cooperation with the police department and all of the other departments of government. We are asking citizens to sign a contract for 6 months with the government in effect saying, for 6 months I will give 6 hours a month for 6 months, or 36 hours. Citizens will work in cooperation with the police, in cooperation with parks and recreation, in cooperation with the schools, in cooperation with health programs. The government and the people will be working together 36 hours and 6 months. We say that we guarantee you that the quality of the life on your block is going to be improved and that is a fact.

We have 250 blocks that have signed up now and we are going to organize every block in the city that is willing to organize and we will cooperate with them. It is an exciting new program where we are going to see, I think, dramatic changes.

There are lots of things to be done. We feel that we are at the end of the beginning; not the beginning of the end, Mr. Chairman, but at the end of the beginning.

We believe that we have learned how to do some things right. We think that we are on the right course. We have had national officials now beginning to say that there are patterns or trends developing here that are positive.

IMMEDIATE AND LONG-RANGE PLANS

Our view is that we know there are no quick fixes and we are not going to try. We are not engaging in any gimmicks at all. We are just trying to get solid programs and moving with them.

In order that we have a good solid immediate and long range plan, we have had five strategy teams with over 130 citizens and experts, including two judges on our criminal justice strategy team. We have two judges, many lawyers, a former U.S. attorney, the current U.S. Attorney's Office representative, our police, and the Department of Corrections looking at the issues in that whole area. They are looking at the issues in legislative areas; looking at the issues in the area of family, youth, and children; looking at the needs in education, drug treatment; public policy and health. In all of these areas, citizens have come forward with recommendations. These strategy team reports are available now—we have brought them to you today, Mr. Chairman.

What are we doing now in government? We are looking at all of these very fine recommendations by members of this community, and many of them will not require additional funding. We want to implement these things right away. Some require some funding, some require legislation, but many wonderful suggestions have been made.

In July, we will present to the Mayor a set of recommendations out of these reports as to what the city ought to be doing in the long run.

We believe we are on the right course. We believe that we have found the proper mix of programs, the proper mix of government and the community. If we are able to get the resources that we need, we believe that we are going to turn what now are merely trends, and what are merely now positive directions, into concrete and very specific results so that we can show that we can get control of this problem in this District, and we can turn it around.

We are very cautiously optimistic about the present and quite optimistic about the future. If we can have the resources that we need now that the government has mobilized itself and is moving forward, and now that the community has been totally mobilized and moving forward, I believe that this city is ready to get control of this problem and to drive the drug dealers and the users out.

Thank you very much, Mr. Chairman.

SPENDING OF FUNDS IN THE POLICE DEPARTMENT

Senator **Adams**. Thank you, Mr. Tucker.

You kept mentioning resources and that concerns me because that is precisely what we went at and I will start with just a couple of examples and then you can refer to other members of your panel.

You outlined the police program, which indicated that the District put on 300 new officers with District funds, and we are now going into the $17 million we made available.

What I want to know is, we understand, Chief, that last week there were not enough vehicles available even for narcotics people to go out on the streets.

Now Mr. Tucker testified in his opening statement that $1.3 million had been used out of the $17 million we made available for additional police officers. Why only the $1.3 million spent if you did not have enough cars? We did not get a reprogramming request and I just want to know what happened.

Mr. **Fulwood**. My understanding of the original $17 million that was appropriated in 1990 was we were not to access that money until such time as we reached 4,355 officers.

Senator Adams. That is my understanding of a restriction included in the authorizing legislation.

Mr. Fulwood. Yes; we have obligated $1.3 million of the Federal moneys, but we have not spent any of that money yet. But to get specifically to the issue of the vehicles and the newspaper article, the newspaper article had some inaccuracies in it because it indicated that there was a shortage of typewriters, that there was a shortage of radios, and that a shortage of vehicles existed.

At the present time, the Metropolitan Police Department has 1,688 radios on hand. At no time do we have 1,688 people on the street. We have 932 radios that are, in fact, on order. At the time that they talked about the typewriters, they had 20 brand new typewriters within the division that were ready, right there, accessible for them to use. So there was no shortage in that area.

In the area of automobiles, there were not a shortage of automobiles. What they were talking about is a specific category of cars, cars that we use for surveillance. We had a contract that has been in place for some 3 years.

At the time that the City Council enacted its budget and made certain cuts to the police department's budget, we had to go in and make some cuts in our equipment area. In that area one of the things that we decided to do was to cut back on the number of rental vehicles that we presently have on hand at that time.

We have, since that time, rectified that situation. The division does have rental vehicles that are now available to them for the purpose of undercover operations, but there were no investigations that were stopped due to a lack of vehicles. That is just not true.

LACK OF FUNDING FOR THE DISTRICT PROGRAMS

Senator Adams. Now the reason I asked that question, Mr. Tucker, as an opening question is that you have mentioned several times resources being made available and your Reclaiming Our Streets Program.

This committee made a specific not only commitment, but appropriated funds to be certain that there was money available so that there would be officers on the street to assist these community groups on the various blocks.

Now you indicated in your statement that you had taken nine target areas and that when you got to the Rosedale-Langston area you did not have the funds for a second target area.

Now does that mean the funds are not available, or the funds for the total program are not available because we do not want citizens out on the streets patrolling without adequate police backup. Part of the program that we had here was to get an additional 1,000 officers to be present on the streets with the people that are in and on these blocks so that we stop the killing.

Now, if that money is not available, why is it not available, and we certainly intended that it be available. When the reprogramming request came up in the supplemental, I did not see there was any shortage. In a minute I am going to ask you about the DARE Program. So whoever on the panel there is familiar with that can answer that for me, but I want to know about that first.

There should not be any lack of funds for moving into these neighborhoods and doing it and if there is, tell me about it, or whoever else on the panel you wish to refer to. That is fine.

Mr. **Tucker**. Mr. Chairman, I will make a comment. Perhaps others may wish to comment.

That reference is not to police. What is happening is that when Reclaiming Our Streets got underway last fall, we had hoped that we could conduct that program within the existing budgetary funds. This included all departments involved.

As I pointed out, we have more than 14 departments involved in that, and we could use up all the recreation workers in the department, for example, in these nine communities if we tried to do them all at one time. We could also use up all of our treatment funds and facilities in this program if we use those funds only for this program.

So in addition to providing these intensive services in a concentrated way in these nine communities, eventually we still have to service the rest of the city. The rest of the city would be very unhappy if we took activities from our Department of Public Works and put them all in these nine areas, for example.

We have to service a whole city. So I am talking about the budgets of all of these departments which have been severely strained. This does not relate particularly to the police department.

LACK OF A REPROGRAMMING REQUEST TO FUND DISTRICT PROGRAMS

Senator **Adams**. Well, what I am commenting on is the fact that there was passed within the authorizing committee that the first 300 police officers would come out of District funds. We understood that. We provided for 700 more and appropriated $17 million.

I can understand that you only spent $1.3 million because you had to get the 300 on and you are bringing on 100 a month, for which I congratulate you. I would hope that there would be more, but I understand recruiting is difficult.

We want to know why there was not a reprogramming request. If you need a million dollars a neighborhood, that is nine neighborhoods, that is $9 million. I do not like to see 14 programs, 14 departments. I do not know how many people are in 14 departments doing a specific job, which is to assist the people in your targeted neighborhoods with police protection and help on the streets.

That is what I am questioning you about because we are still getting the shootings. We do not expect solutions to happen overnight, but when you say to me there is a lack of resources to carry out the programs which you want to carry out, and which I hope Mr. Bennett wants to carry out, and which this committee certainly thought we were putting the money in last year to carry out, to just simply be out on those streets then I am distressed.

COORDINATION OF DISTRICT AGENCIES TO FIGHT WAR ON DRUGS

Mr. **Fulwood**. Let me try to come at it a different way. At the present time, we have 4,358 police officers, as we have indicated. There are 440 some people in the police department's training academy. We have been spending overtime at a rate equivalent to the difference between the personnel available and what we consider adequate resources on the street, about $18 million in overtime already this year, which is a tremendous sum of money.

What we have found and relying on my 26 years of law enforcement experience, is that when we go in and we conduct sweeps, and we can certainly do that—the problem is disrupted temporarily.

Senator **Adams**. I understand that.

Mr. **Fulwood**. We find that other agencies have a tremendous impact on the problem of drugs and violence. One of the specific areas, crack houses, where people shoot up and use them as shooting galleries, we find that if we do not have the support of the Department of Consumer and Regulatory Affairs and the support of the Department of Public Works, that we are ineffective. When we go in, we get temporary solutions, not permanent solutions.

What we have found is that we need these other agencies to come in, conduct inspections, locate the owners of the property, and secure the property. If they are not able to secure it, they have DPW secure it by bricking and boarding up the houses. We have used the Department of Corrections for that purpose. We have used the National Guard for that purpose. We have found that the quick fix just does not work. We have got to have this consolidated effort.

What the Drug Policy Office has been attempting to do is to take all of these agencies and to give them a lot more focus. The other side of this equation——

Senator **Adams**. Chief, it is not focused because we do this—we had the same problem in our neighborhood. I just was in the Hilltop neighborhood of Tacoma in my State of Washington, and it is precisely the same problem. Not only that, but we have got the gangs up out of Los Angeles that are fighting it out on the streets. We are closing those houses and afterwards they are being taken over by the Public Works Department and so on.

What I am saying to Mr. Tucker and to you is, I understand about police sweeps. I am an old U.S. attorney. I am talking about a police presence and the funding necessary to close the houses and if you need to have the reprogramming request I am sure that Senator Gramm and I could get that through.

We do not want any of these programs stopped and we understand that it is not entirely a police program. We are very well aware of that, that it involves a number of other departments, but I do not think you need 14 departments. But whatever number you need, we want to be certain that the funding is reprogrammed and then we will put in more, if necessary, that you do not say to a neighborhood, we cannot complete our program in your area by putting a police officer on the street and by bricking up the crack houses because we do not have the money.

Now that just is something we just—that we really cannot take.

Chief **Fulwood**. Senator, I do not think anybody up here is saying you cannot put the police there because the police are being put there. We have policemen in all of the police districts. They are in those areas. We have adopted a different philosophy in law enforcement, as the Congress indicated. It is community based policing. We have gone to something called Community Empowerment Policing in order to frontside more of these activities.

So, there is not an absence of police officers. What Mr. Tucker was alluding to is the other agencies who have experienced severe budget cuts at the city level and do not have the ability to spread resources over nine areas in a concentrated way. It is not the police. It is not the police funding. Police funding is adequate.

Senator ADAMS. No; what I am saying is, we could have reprogrammed easily out of the between $1.3 million and $17 million to go into those departments and we give you some more money for the next year and that is what I am going to be looking at in the next hearing. That is what I am saying, I want people up to date saying if you do not have enough money, reprogram it. We will give the police department more money. We can always get money for the police department.

Senator Gramm has got to go to another hearing. You are not going to get rid of me, but he would like to ask a couple of questions.

The Senator from Texas?

NEED FOR DEATH PENALTY FOR DRUG MURDERERS

Senator GRAMM. Thank you.

As you are aware, we have had a big debate up here in the Senate on the death penalty for drug murderers. I do not want to get into a dispute about who ought to impose such a penalty. But, I would like to ask, beginning with you, Mr. Tucker, do you think we in the District of Columbia should have available to a judge—where the case warrants it—a death penalty for drug murderers?

Mr. TUCKER. Senator, our strategy team of the criminal justice system recommended that we have broader sentencing possibilities, or alternatives. It did not get into the specifics as it relates particularly to this subject, but there is a view that we do need broader sentencing alternatives.

On this particular question, I do not believe the government has formed a position on that issue, but——

Senator GRAMM. What do you think about it?

Mr. TUCKER. My personal view is that I am opposed to the death penalty, Senator.

Senator GRAMM. Do you think we ought to have a mandatory sentencing where they have to do the real time?

I mean when you are talking about broader categories, often that means very little in the way of punishment.

I wonder, for example, Chief, if you only had to arrest a person once every 20 years for a drug felony if your job would not be a whole lot easier.

Mr. FULWOOD. It would be. I think I could work 8 hours a day then.

Senator GRAMM. So your problem is that you have got all of these guys that are repeat offenders.

Mr. FULWOOD. That is correct.

RATE OF ARRESTEES WITH SECOND OFFENSES

Senator GRAMM. What percentage of the people that you are arresting on drug selling charges in any month would have already been arrested and at least charged for that or some other felony?

Mr. **Fulwood**. Probably someplace in the area of 60 to 70 percent in the adult population and in the juvenile population, it is consistently running about 65 percent.

BOG-DOWN OF CRIMINAL JUSTICE SYSTEM

I think, if I can give you another response to this, I think one of the problems that we have in the District of Columbia is, I believe, that justice delayed is justice denied. The criminal justice system is bogged down. There are so many cases in the pipeline that the chances of a murder trial, as you read in the paper today, going to trial in a timely fashion does not exist. It is a 2- or 3-year process.

Last year we arrested 331 people for the crime of murder. They are in the system. They only tried I think about 105 cases. I think if we can make improvements in the process so that we can speed up the time, I think that what we need is not necessarily harshness, but certainty and swiftness of punishment. That is what is not happening in the Nation's Capital, nor is it happening, probably, in a number of other cities around the country.

MANDATORY MINIMUM SENTENCES

Mandatory minimum sentences we do have in a number of areas, and we have been shifting some cases, with the help of Jay Stephens, over to U.S. District Court where there are mandatory minimums.

The other thing is, when you start talking about drug related murders, I believe we certainly ought to have mandatory life imprisonment for it with no parole, because I think you ought to extract the greatest penalty that we can extract from a person who murders a person, any kind of way, for any reason.

Senator **Gramm**. Well, you know, I realize sitting up here and not dealing with this stuff everyday is different—and I am going to walk out of here and be talking about the space station in a minute and then tomorrow I am going to be talking about the budget problem—while you are going to be back trying to do these things that the chairman and I are up here 15 or 20 minutes talking about. I understand that; but it seems to me that what we need is some kind of program, and I have been trying to think about it and certainly do not have the answer. In many ways the answer is not going to come from the Congress.

But it seems to me in the Nation's Capital with all of the resources, that we ought to be able to institute some kind of emergency program—some capital crime and drug emergency—and take some of this money which we are giving the District of Columbia and go out and enter into contracts with jails and prisons around the country so we have got the space; bring in some of our retired Federal judges who would like to spend a few months in the Nation's capital; and set up some courts and bring these people to trial and have some stiff, minimum mandatory sentences and send those guys on off to Georgia or to prison in Texas somewhere and have them there 10 or 20 years and then you could get on with all these other programs with them out of the way. Then our retired Federal judges could go back to their retirement, and we could start talking about building the prison we need here.

Our problem is a surge problem. As I listen to everybody talk about it, it is as if we are overwhelmed and cannot do something about it. I run into the same problem with our national drug and crime problem.

Had we fought World War II the way we are fighting this war on drugs, we would have lost. I just think we need a program that is aimed at getting on with the job. I cannot help but believe if you put it to a vote of the people in the District of Columbia and you said, "Would you be willing to support having the Federal Government allocate its funds so as to force the District of Columbia to spend the same proportion of its budget on law enforcement and criminal justice that the top 20 cities in America spend?" my guess is they would say yes.

If you had people who said, "Would you be willing to have a national crime emergency so in that 5-year period anybody convicted of selling drugs does minimum mandatory time in prison?" my guess is people would say yes.

Now what we have got to do, it seems to me, is to find a way of doing that. I just want to leave you with this commitment. First of all, if the District does not come up with a program, I believe you are going to see people in Congress trying to come up with a program; and I do not think that is the efficient way of doing it because we do not understand the problem as you do and there is no way we can ever understand it.

But if you will come up with a program, not a program that has 14 agencies and requires interface with all of these people and all of that kind of baloney, but a program that says that we are going to come up with minimum mandatory sentencing. We need a special program to bring judges to the District of Columbia for a period of time to get this backlog under control. We need funding to put people in prisons around the country, and prisons are being built all over my State now on a for-profit basis. My guess is we get these guys out in west Texas and they will find out they are not as tough as they thought they were, a message that they are not getting here.

You come up with a program like that which has got a little bit of imagination in it, and I can assure you that I will work to try to be sure that it happens.

So I want to help you. I want you to tell me how I can help you, but I really believe until we can get rid of this crime without punishment problem where kids everyday are seeing some drug thug arrested and the next day right back on the street, if you have got to arrest the same people over and over and over; if we have got rehabilitation where people come in when they are not feeling good, but then the next day they are back out taking drugs; well I just think we are not getting down to a program that is intensive enough to deal with this surge problem we have. I think we have got to have some kind of emergency program for 3 to 5 years to give you a chance with our help to get hold of the problem and then settle back down into the kind of program the chairman and I are trying to initiate.

What we are trying to do is needed for the long term, but my guess is we are not getting at this problem we have got right now. We are so caught up in this emergency situation that trying to get to a long term rehabilitation program, education program, criminal justice system, that we are just not getting there because we are drowning in this temporary problem.

So if any of you have got ideas, please put them down on a piece of paper and send them to me, or if you want to come talk to me, do it and I would be happy to try to work with you.

Mr. Chairman, thank you for holding the hearing.

Senator **Adams**. Thank you.

Mr. **Tucker**. Mr. Ridley would like to comment, if he might, Senator.

HOUSING INMATES IN STATE FACILITIES

Mr. **Ridley**. Senator Gramm, Walter Ridley, Director of Corrections.

In response to the contracting issue with State and local governments throughout the country, today, you know we have an interstate corrections compact that was moved through our executive branch and our legislative branch of the City Council.

Today we have 861 offenders who are housed in State and local jurisdictions. Of course, about 400-plus are housed in, of course, your home State of Texas. We also have roughly 2,000 plus who are housed in the Federal prison system and you couple that with the 8,361 that we have at Lorton and our District jail, we are talking about pretty close to 12,000 offenders who are either behind a fence or a bar, and are either directly or indirectly under the supervision of the District of Columbia.

In addition to that, we have nearly 1,200 who are supervised by community based alternative programs in the District; with pretty close to a total of 13,000 D.C. Code offenders in both institutional and community programs.

When we talk about resource allocation, Senator, we are talking about a very expensive venture. Correctional housing is extremely expensive. We are encountering some difficulty with our out of State programs, in your State in particular, sir. They are having some difficulty in southwest Texas handling some of our inmates and we have been in constant conversation in that regard.

We have also entered into contracts with the State of Louisiana in some of their southwestern Louisiana facilities. So we are pursuing those kinds of options, vigorously.

But again, it is a resource issue that we have here and to talk about additional mandatory sentences, we are talking about housing. Senator, in all due respect to incarceration, I think there are some other options we need to explore when we talk about the crime and justice problem in the District of Columbia and at some point I will be glad to share those with you, sir.

CLOSING REMARKS OF SENATOR GRAMM

Senator **Gramm**. Well, let me just say in conclusion, I do not want to get in a big debate here. I am not claiming that prison is the answer to all the world's sins, but I am saying that when the chief is telling me that in any month that 65 percent of the people that are being arrested have already been convicted of serious or similar crimes, in my view something is wrong. That ought not to be happening.

I think the way you do it, as expensive as it is to send one of these guys off to jail for 20 years, my own opinion is that it is probably cheaper than having them out there trying to sell drugs to junior high school students.

I do not know how you deter them from doing it other than people seeing stiff penalties. I think the problem in the District of Columbia—it is a problem nationwide, but I think it is more focused here than anywhere is, is the perception that there is crime without punishment. The article in the paper today, which has been alluded to, is a perfect example. Now people do have rights, but I think the courts have gone crazy when people are being let go for murder charges because we are slow prosecuting them. We ought to be prosecuting them quicker.

But on the other hand, who represents the rights of the next person that might be killed by these people? They had rights to a quick trial, but what about people who might be murdered by him next week? Did they have any rights?

I just think we have got a whole system that—I just think we have gone too far in this whole deal of protecting criminals' rights to the exclusion of protecting the rights of the people who pay your salaries and pay the taxes in the District of Columbia.

I do not know your constituents like you know them, but I just cannot believe they are that different from my constituents.

Thank you, Mr. Chairman.

USE OF FUNDS APPROPRIATED FOR THE DRUG EMERGENCY PROGRAM

Senator ADAMS. To pick up on that, this was what we anticipated and thought we were doing when we had everybody up here last year. Now this court matter really outrages me because we went with the idea of additional prosecutors in the Federal system last time, requested that that be done. There was additional money put into the courts. We went into the court of appeals for $289,000, which they said they needed; the superior court, $2,500,000; the court system, $1,947,000, and of that, I understand $1.5 million went to courthouse security.

What we are dealing with here is a problem of moving people through the system and I do not understand why someone held for murder is not before the court on a priority basis. It is true in every other jurisdiction that I know anything about in the country.

These funds were appropriated. Now if there was not enough appropriated, then we want to be told so and we will be having up the prosecutors and the court system again. But we had everyone sitting where you are sitting last year. We asked for the amounts of money that they needed. We appropriated those amounts of money and I just cannot accept this lack of resource argument unless something has gone into a terrible glitch, and if so, tell us because we are going to be sitting with the budgeting people, just as you are sitting here now, next time.

I do not like the idea that in the District of Columbia we seem to have—it was mentioned 14 departments involved with programs. We have got departments all over every place. We have got people all over every place, there needs to be focus and coordination. We are dealing with a surge crime problem, just as Senator Gramm stated.

We have put money into the police department. We have put money in the prosecutor's office. We have put money into the prison system. We have put money into the corrections system. And we have put money into the court system and if we did not put enough, tell us, but I agree that we have got to get these people off the streets.

Our program was not designed, as Senator Gramm says, to be business as usual or a long term program. It was to deal with the street problem.

Mr. Tucker, if we are not dealing with the street problem—I am not out there in the streets. Ten years ago, or longer, I used to be on the House District Committee. I use to ride with the police department. I do not get a chance to do that anymore, but if we are not putting the resources in, we want to know why and we want to know—and we will be asking specifically both by letter and if necessary then by hearing why people that are being held for murder, and I know the preventive detention system, were being released because they were not being tried.

I mean if this is Mr. Bennett's problem, that is one thing, but I have got you here because you were appointed in this particular drug area and there are a lot of things that Senator Gramm and I do not agree on, but there are some we do agree on and one is getting people off the streets and holding them off the streets for a long enough period time so we can stabilize them.

HUGE CASELOAD OF COURT SYSTEM

Mr. **Fulwood**. Last year, in 1989, we arrested 10,000 people for drug offenses, just drug offenses, felony drug offenses. Last year, we arrested 331 people for the crime of murder. So far this year, we have arrested 116 people for the crime of murder. That system is bogged down. There are so many cases going into the system, Senator Adams, they are going in there in astronomical numbers to the point that the U.S. Attorney's Office is hiring additional attorneys and attempting to——

Senator **Adams**. That is what we wanted them to do because the U.S. Attorney's Office, has got to have their skilled people doing nothing but trying murder cases.

Mr. **Fulwood**. And they have created a felony murder section. They have created a sex offense and violence section that is trying to process these cases through, but never, in their wildest imagination, did they figure that they would have 331 people arrested in a given year. There is no way they can get—the felony calendars that the judges have do not exist because of the numbers, the sheer volume of it. This problem is a surge problem, as you indicated. It is not going to be solved in any short burst of activity, but there are arrests being made in huge numbers. What happens is, they are going in one door and out the other.

Senator **Adams**. This is what we directed money toward last time, which was for the court system also. We can bring back in the retired Federal judges, as was suggested, and we can make the courtrooms available, but there has got to be an order of priority here and the priority is you have got to get those murderers off the street first.

I am not trying to berate all of you. I am trying to find out what has to be done to do that. I know what we did when we were the U.S. Attorney's Office and we got a surge, we put all of our people over there and we put them away and then, sure, our cases got behind and so on, but there has got to be a sense of importance here of starting with first things first and to meet first things first is murder one and then police on the streets.

We put money into the treatment programs because we believe that this is going to be solved by jails or by arrests alone, but right now if we cannot stabilize those streets, we cannot make the other things work. What I am so disappointed in is we went through this last year and we thought we put enough money in.

NEED FOR ADDITIONAL RESOURCES TO FIGHT WAR ON DRUGS

We need to have from you whatever is to come up in this budget because we are going to have the budget hearing next week. I would not see us appropriating an awful lot of money and although some of my potholes do not get fixed, my super can does not work, and I cannot get down Connecticut Avenue because they take too long to fix the roads and the tunnels are all shut down, but this problem is one that we just cannot ignore.

I am hopeful that out of this hearing and the statements that you have heard, and believe me, my other compatriots on this committee feel even more strongly about this, we want to know what resources we have to appropriate so that we can do this.

Mr. TUCKER. Mr. Chairman, I guess the one thing that this government cannot be criticized for and this police department cannot be criticized for is its ability to arrest people.

Senator ADAMS. Agreed. I am not——

Mr. TUCKER. We are experts at that. We are so good at it, we have no place to put them. So we do take the criminals off the street.

Some of the questions you are directing, we would be willing to direct them to the U.S. Attorney's Office and at the court system. We meet with them. We meet with the court. We meet with Dr. Bennett. We meet with the prison system. We have been meeting over and over with the prison system, Mr. Ridley and I, trying to work through the problem of prison space. So we do arrest them.

I also would not want to leave the impression, Mr. Chairman, that our streets are not safe. It would be unfair to the community to leave that impression.

A lot of people feel very good about their neighborhoods, feel better about their neighborhoods.

Senator ADAMS. Good.

Mr. TUCKER. And I think because that is an accurate impression that they have for many of their neighborhoods, it is important that the record show that that is the case.

We are not saying that we do not have a major problem still. We all know that. We are out there everyday, long, hard hours, 7 days a week. So we know that. But there are some positive things, however, that are happening and I think we ought to recognize that and recognize those people who are working with us to make these things happen. I do think it is very important to do that.

You made an earlier suggestion that I like very much, the matter of reprogramming. We have learned very well that law enforcement by itself, arresting people by itself is not enough. As I said, we arrest so many, we do not know what to do with them. If that would be a solution to a problem, we could all go home. There is no department in the world that is more effective at arresting people than——

Senator ADAMS. Answer this for me, Mr. Tucker.

Mr. TUCKER. Yes.

COMPLETION OF THE CORRECTIONAL TREATMENT FACILITY

Senator ADAMS. I found out from Senator Specter when I came on as chairman of this committee that he had authorized a prison when he was here and that that prison had never been built and so I made it a particular project to see that that got done.

Now I hope bricks and mortar are up there. I was assured that they were and that at least that prison, I am not talking about the new ones that have been talked about, but that one that was authorized in 1984 is built or close to being finished. When is its finish date?

Mr. RIDLEY. It is due for completion, Mr. Chairman, in November 1991, sir.

Senator ADAMS. All right. Is there any way we can speed that up?

Mr. RIDLEY. We have accelerated the whole process, Mr. Chairman. We are probably about two and a half times speed now. We have been really accelerating it.

LACK OF A COURT FELONY CALENDAR

Senator ADAMS. Now on holding facilities and on trial, you mentioned there is not even a felony calendar down there. I had Judge Ugast up and I had a number of the other judges and they came in and testified. I cannot believe there is not the felony calendar.

Can somebody here explain to me why there is not a felony calendar?

Mr. FULWOOD. Well, what has happened is that the volume of cases going into the system has created such a backlog that the judges virtually cannot control the felony calendar. It goes through the roof. In effect, that is what has happened.

I have recently had a meeting with Chief Judge Ugast and the U.S. attorney, Jay Stephens, to talk about how to streamline the process, how to speed the process up. We all recognize that there are so many cases going in there in volume. Anytime you have 331 murder suspects in the system, I mean that is astronomical and then we have piled 116 more in there already this year.

So they cannot control the number of cases in. The U.S. attorney has realigned——

Senator ADAMS. Oh, I understand they cannot do that. What you have to do then is you have to push aside your other cases until you are getting more personnel on board to handle it, but that is your number one calendar.

You see, what is really bothering me is that we use to do when I was a U.S. attorney in the State of Washington was to have the grand jury and we would indict on Friday. We had to arraign on Monday. You had to be ready for trial the following Monday. Now that is the standard manual approach out of the Department of Justice and the prosecutor's office is part of the Department of Justice.

We have got a surge here. We have got a terrible surge when you have 400 cases like that. I just want to know why either Mr. Bennett or whether you have requested assistance or not. You have got to bring in the retired judges, you have got to bring prosecutors from other districts, which you are entitled to do and get that calendar under control at the expense of other calendars. Because letting these two people out or how ever many are out or giving bail when you should not be giving bail is just asking for another murder and another pickup that you are having to make.

Mr. **Fulwood**. Oh, I agree with that. I think the judge made an error. I mean, I think clearly the judge erred in releasing the two people. They are not going to go on the streets because, fortunately, they have been convicted on other things and they are waiting to be sentenced. So they are not going on the street. But the idea of sending a message that the system is so messed up that two people can go on the street that have allegedly, and I used the word allegedly, committed murder is asinine. If you are talking about an emergency——

Senator **Adams**. Well, I want you to know that I got the message, Chief, when it came.

Mr. **Fulwood**. OK.

NEED FOR 24-HOUR ARRAIGNMENT COURT

Senator **Adams**. And we have been through this before in terms of pushing people in and pushing people out, but I certainly would rather have a counterfeiter out on the street than I would somebody who has allegedly committed a murder.

Mr. **Fulwood**. The problem is that the connection between the 10,000 people that are arrested for drugs and the homicides are related. So they need to continue to push those cases through. But we need a 24-hour arraignment court. We need 24-hour papering if we are in an emergency.

Senator **Adams**. Why not have it?

Mr. **Fulwood**. I do not control it. It is a bifurcated process. If I controlled it, I would mandate it as soon as I walked out the door.

NEED TO PROVIDE ADDITIONAL FUNDS TO THE DISTRICT

Senator **Adams**. Let us get some letter from all of you and I am glad to see that there are other District officials sitting in the back here because there is going to be a hearing next week. But I have found out and am finding out what happened with what we did last year and it obviously was not enough.

Now I agree with you, Mr. Tucker, that things are happening. We are improving in increments, but this is not an incremental problem. This is an immediate problem that we all thought we had placed enough funds into a program, not that we are out fighting the fight. You are in the trenches and God loves you for being in the trenches, but we do not want you to lack resources to carry it out and we do not want the other parts of the criminal system to lack the resources because we cannot arrive at the treatment end until we do something about the other end.

I was hopeful at this hearing this morning we would be able to talk about treatment facilities and inpatients and outpatients, particularly pregnant women, and I wanted to talk to you about the DARE Program, which is putting police officers at the elementary school level so that there is a connection between police officers and the kids early on. This is being used very successfully in many parts of the country.

You have got the same problem that I have got in a little town known as Yakima out there in the State of Washington. It is a rural town, but it is at the end of the pipeline where everybody is sending drugs up the coast, and they are completely overwhelmed. So our full attention is to put in judges from other counties, to put in additional facilities, to pull the people out of that area and put them into jails in the other areas. When they ask for money, I go into the Appropriations Committee and ask for money. That is what we are trying to figure out how to do here.

Mr. Fulwood. One of the things that we have talked about over time with jail overcrowding is the use of military installations that are being surplused.

Senator Adams. Absolutely.

Mr. Fulwood. It just seems to me that if we are serious we would open a military base, a surplus military base and turn it into a jail. We can do that quickly. The military has got the greatest——

Senator Adams. All right. You give me a suggestion of one or two and I will take that up immediately.

Mr. Fulwood. The other thing is you mentioned about reprogramming. I certainly hope—and I would like to be on the record, I am not for you reprogramming money from the police department.

Senator Adams. I understand, Chief. When I talk about reprogramming, we are dealing with this kind of certain problem. Reprogramming is for 1 year and if the money which is obligated is not being used some place else, we want to move that to where it is needed. Then we are going to put some more money to replenish what was taken. We can achieve money for the police department. I think we can achieve money for the courts also, but I just am trying to get this very badly bifurcated system here to understand that the Congress, you heard Senator Gramm. I do not want to repeat to you what a number of others are saying up here in the Congress.

I believe in home rule. I drew the charter for this home rule system and I do not want to see it attacked and all kinds of congressional action because we are dealing with a problem that is on the front page everyday, that should be on the front page everyday.

The killings that are occurring in this city are just awful and if you have got any other requests or statements, be sure we have them so that I can ask the people next week.

Now any of you that would like to make a statement to me or a comment to me about anything that I have not covered in this area, please do so. I am not downgrading the treatment facilities or the fact that we have got to do away with demand.

That is what I had hoped we were going to discuss today, but it is obvious we did not do enough last time or we did not do it right, Mr. Tucker, in terms of giving you the resources. So I want to be very certain that we try again next year.

It is going to take us 5 years. We know that, but we cannot fall behind and I am worried that we are going to fall behind.

SETTING THE TONE FOR THE OVERSIGHT HEARING

Mr. Tucker. Mr. Chairman, I think it is important that the tone of this oversight hearing reflect the true situation in the District, that is, a lot has been done and a lot is going on, and the departments are moving, and there has been a real gearing up, and that the government has appreciated that initiative on your part, that leadership you have given, and we have responded to that leadership and are still responding to it and are cooperating in that leadership.

We have come to understand that for the police department to do its job fully we all have got to do our jobs more fully. It cannot be done in isolation.

Senator Adams. Correct.

Mr. Tucker. So it is necessary for these 14 departments to have adequate funding. It is not baloney. It is important for all of these departments and others not represented here to be geared up and to be able to function.

We have not had an increase in the Federal payment in about 5 years. We are still subsidizing the Federal Government in the District of Columbia. The taxpayers are still subsidizing the Federal Government trying to provide the services that the District requires, that it needs. We have still got to function. We have got to still serve these citizens.

The special appropriations, that is fine and we do appreciate it very much, but we still have got to provide all of the other services that our citizens require and they demand.

If the Federal Government would participate fully in its share of funding—of not just funding, but paying its fair share in the District of Columbia, we can service all of our departments more effectively.

Second, it would be most appropriate to talk about treatment and these other things because they are related to the criminal justice system, related to the Department of Corrections.

Your record over the years, Mr. Chairman, suggests that you know that all of these other services are needed when you were on the House District Committee. You whole life's work reflects your knowledge of the need of the coordination and the comprehensive approach to these problems and we are prepared to do that. We are at that point in what we have done, and we are planning to discuss these other things. We are here to do that today because we think it is right, and appropriate, and timely that we discuss these other things.

I would not want the impression given that there is no point in discussing treatment and other things today because we have not done what we are supposed to have done.

Mr. Chairman, we are doing what we are supposed to do. We are working effectively with the resources we have. The community is responding very well. We are moving forward as a government and as a community in all of these areas.

DRUG TREATMENT PROGRAM FOR PREGNANT WOMEN

Senator **Adams**. Let me just ask you, Mr. Tucker—you mentioned that you had outpatient services for pregnant women available on demand. What about inpatient?

Mr. **Tucker**. Dr. Benjamin or Mr. Jackson.

Dr. **Benjamin**. Senator, in essence, any woman who comes into our services initially receives an outpatient assessment and to date we believe we have touched base within the Commission of Public Health with about 200 women.

One of the interesting things that we are finding, as we predicted it, is that women cannot drop what they have to do and go right into a treatment facility. We were limited more so by the individual's ability to get into—or to want to go into the treatment facility at a particular time than we are with space.

We currently, even with the $2 million that we were given, have a $3.7 million problem. However, we are committed to making that work. We found that we had to add a lot of other services other than just the inpatient piece of provided services. We had, of course, outreach and some counseling that had to occur.

It is important to know that we are committed to any woman who comes to our system and says I want to go into the hospital now. We believe we can get them in.

The problem tends to be on the patient and not on the system at this point. The 23 beds we bought, which is an average of about $219 a bed, there is a range, of course, in the cost of those beds. Although it does not seem like a lot of beds, but it really is, based on a lot of dollars that we are spending.

We currently have three women, I think, in beds now. We have a fourth that is kind of waiting to get in. We have 8 beds on line. We are prepared, I think, by June, as soon as we finish executing some additional contracts, to have all 23 of those residential beds on line.

One of the other issues we found out, of course, is that you need to ensure that you have some comprehensive prenatal care services in those beds and we are comfortable that we also have that service available.

LITTLE LEAGUE PROGRAM IN THE DISTRICT

Senator **Adams**. Well, that is helpful.

I will just close by one statement that I want to make. To me, the District has an enormous opportunity in the area of dealing with its children to be able to use the recreation department, the marvelous athletes that are from this area working in those programs, and the police department seeing that they are safe enough to do it.

I, like Senator Kennedy, was appalled at the fact that this was one of the few cities in the world or the United States that did not have a little league program.

I just want to say that we are prepared to work with you on having the private sector people like that work on those programs because we are finding in city after city that if we do not catch them by about the 4th grade we are not able to move with them.

I hope, Chief, that you have examined and, Mr. Tucker, the DARE Program only because I have seen it form a new link with the police department.

Do you wish to make a statement?

Mr. WOODARD. Yes; I would.

Mr. TUCKER. Mr. Woodard of the Department of Recreation.

Mr. WOODARD. Senator, my name is Paul Woodard and I am Director of the Department of Recreation. My citizens of this city would hang me if I did not respond to that statement.

In this city we now have over 250 little league teams servicing over 4,000 young people and they are run cooperatively by the Department of Recreation and the citizens. So I have to respond to that. We have a very effective little league program in this city.

Senator ADAMS. Thank you.

Mr. TUCKER. The question of DARE.

OFFICER FRIENDLY PROGRAM

Mr. FULWOOD. For over 20 years, we have had a program called Officer Friendly, which is identical to DARE. We teach from prekindergarten through the 12th grade in the school system working with parents, working with the administrative staff, and working with children about drugs, violence, conflict resolution, and in general how the criminal justice process works. We believe that it is an effective program. We have looked at ways to expand it with additional programs with Dr. Jenkins from the school system. We have assigned over 100 officers to that specific program.

We think it is an effective way to deal with it. We have talked with LAPD. They are not doing anything that is greatly different than what we are doing with Officer Friendly, which was originally funded by the Sears and Roebuck Foundation, a public/private partnership thing, but it is pretty well funded now by the police department in its entirety.

Senator ADAMS. Thank you.

SUBCOMMITTEE RECESS

The subcommittee will stand in recess until Thursday, May 24, 1990, at 10:30 a.m, when we will proceed further with the budget hearing.

I appreciate all of your being here this morning. I am glad to hear you have these programs, but I am afraid I have to say to you that whatever we are doing, it is not working and we want to make it work.

Thank you.

[Whereupon, at 11:30 a.m., Wednesday, May 16, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, MAY 24, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:40 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Brock Adams (chairman) presiding.

Present: Senators Adams and Gramm.

DISTRICT OF COLUMBIA

OFFICE OF THE MAYOR

STATEMENT OF HON. MARION S. BARRY, JR., MAYOR

ACCOMPANIED BY:

- CAROL THOMPSON, CITY ADMINISTRATOR AND DEPUTY MAYOR FOR OPERATIONS
- WILHELMINA MARSHALL, DEPUTY DIRECTOR FOR LEGISLATIVE AFFAIRS
- ROBERT POHLMAN, DEPUTY MAYOR FOR FINANCE
- ISAAC FULWOOD, CHIEF, METROPOLITAN POLICE DEPARTMENT
- RICHARD SIEGEL, BUDGET DIRECTOR

OPENING REMARKS

Senator ADAMS. The subcommittee will come to order.

This is the first meeting of the District of Columbia Subcommittee on Appropriations on the budget of the District of Columbia for the coming year.

This morning the Subcommittee on the District of Columbia begins its review of the District's fiscal year 1991 budget. The budget presented to the Congress by the District government is a balanced budget.

The Mayor can correct me if I am wrong, but I believe that during the decade of the 1980's, the District had nine balanced budgets. During that same decade, we had to rescue New York City from bankruptcy and loan the Chrysler Corp. hundreds of millions of dollars.

So I want to welcome all of you here this morning, particularly the Mayor and the chairman of the District council and their assistants and look forward to the presentation.

The Federal budget for 1991, as recommended by the President in January, contained a Federal payment of $430.5 million. This is $14 million less than President Reagan requested in the first year of his second term and the same amount the District has received every year since fiscal year 1988. If inflation is considered, this is less than the District received that year.

Now, if we take the ill on the streets, we expect the District government to send an ambulance. If we are robbed, we expect the District government to catch and punish the thief. If a pothole opens in a street we take to work, we expect the District government to have it fixed before we go home that night.

Mr. Mayor, Mr. Chairman, these are issues we will explore during our questioning, but another issue I intend to raise is the recent statements and actions of the police department and with that, of course, the City Council and the Office of the Mayor.

I do not understand that with an increase of $17 million in this year's budget to hire additional policemen, which I know was not used entirely because 300 policemen had to be hired first from local funds, there was a remainder of approximately $16 million. There was a question of whether or not there was overtime, whether or not there were police cars available. Patrols were taken out of certain high crime areas because of the overtime lack of funds, and we had the type of activities that took place in Georgetown last week. I am very interested in that and I hope you will address it because, if not, I will ask questions about it.

I do not want to be getting my information from the public media. We did not receive a request for reprogramming for money to pay overtime. We put it into the supplemental appropriation, $3 million in addition to this $17 million because one of the primary purposes of the budget last time was to add additional money so that the District of Columbia, above and beyond the Federal payment, had funds available for the hiring of up to 1,000 additional policemen, 8 additional judges, additional prosecutors, the money necessary to complete the jail that was supposed to be completed starting in 1984, and to do something about the crime on the streets.

We know that the crime on the streets problem is a local District problem. This committee, nor the Congress, is either capable, nor is it our function to carry out these activities. I highly resent it when I am informed that there are not resources available to pay people to go on to the streets, or that in some fashion there are not resources to have patrol cars, because those are the people in the streets who are controlling this.

If any area should be exempt from needed cutbacks, it is police enforcement and visibility on the streets. To do otherwise sends the wrong message to drug dealers and street thugs. We cannot make enough tough speeches about crime and then cut patrols. Our priorities have to be clear and unmistakable. Criminals and street toughs will not be tolerated, period.

I mention that because it was a focus last year when we accepted nearly all portions of the recommendations of the City Council and the Mayor's office for the budget that was presented and the budget went through. We had our arguments and two Presidential vetos because of the prochoice language. I support that. I do not mind Presidential vetos. I am prepared to stand those again.

When we deal with the day-to-day operations of the city and we find that one of the highest priorities we have, which is to get rid of this statement that is being made around the country that this is a crime capital, and then I do not receive reprogramming requests I want you to explain to me your process for reprogramming, when I know that money is available. I have to continue to read in the paper that we have not provided resources or someone has not provided resources, that creates a problem both for me and it creates a problem for the city far greater than mine in trying to build a consensus in the Congress for support for the city.

Now, I do not want to get into any fights or political struggles that may or may not exist among departments or City Council or the Mayor's office. I am not saying they do, but I am really surprised after all the effort we went through to have to read that I have not received a request but you are short of money in an area where we supplied money.

Now I know there are many other needs of the city and I do not want anyone on the council or the Mayor's office to believe that the only thing I am concentrating on is the drug problem and crime. That just happened to be a specific area we were working with last year.

We are interested in all aspects of the budget. We are interested in the health of this city. It is a pleasure to welcome this morning the elected officials. As I say, you may present your matter however you wish. If that particular area is not covered, I will be asking questions on that.

Due to the fact that we have the crime bill on the floor of the Senate this morning with a number of very, very difficult provisions in it that many of us oppose and some provisions in there that we do support, such as trying to get assault weapons off of the streets, which are very important to the District, I will undoubtedly have to hold more than one hearing, but I wanted to hold this one so that the Mayor and the head of the City Council could make their statements and presentation. We will recess at the vote and I will come back and we will continue on for as long as we can this morning.

If we do not get all the matters covered, we will have another hearing so that everyone has an opportunity and then I will meet with Representative Dixon and we will have perhaps a joint hearing, as we did last year, on public witnesses.

I take this responsibility very seriously and I am concerned that if I have not done part of my job in terms of providing funds for the protection of people in this city, I want to know that. I do not think the fault lies there. Therefore, let us proceed forward.

Mr. Mayor, it is a pleasure to welcome you to the committee this morning. The committee looks forward to receiving your statement.

OPENING REMARKS OF MAYOR BARRY

Mayor Barry. Thank you very much, Mr. Chairman.

I am pleased to appear before the committee today to present the District of Columbia's fiscal year 1991 budget request.

Before beginning my testimony, Mr. Chairman, I would like to thank you and Senator Phil Gramm and other committee members for your understanding. You have defended the District when others have not and I greatly appreciate your support.

Senator Adams, even when you were a Congressman you have been a strong supporter of self-government from the beginning and that support has continued. I want to thank you for that.

I know that laboring over District issues can be a thankless job. Your colleagues, I am sure, continually ask you why you are so supportive of our efforts and I am sure that it is not always easy to convince them of the difficulties and complexities of our government.

I look forward, as I believe you do, to the day when the District has a greater degree of self-government than it now has so that these hearings will no longer be necessary.

PREPARED STATEMENT

Mr. Chairman, I would like to ask that the entire 36 pages of my statement be entered into the record in its entirety.

Senator ADAMS. Without objection, your entire statement will appear in the record as though given in its entirety and you may proceed however you wish, Mr. Mayor.

[The statement follows:]

STATEMENT OF HON. MARION BARRY, JR.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM PLEASED TO APPEAR BEFORE THE COMMITTEE TODAY TO PRESENT THE DISTRICT OF COLUMBIA'S FISCAL YEAR 1991 BUDGET REQUEST. BEFORE BEGINNING MY TESTIMONY, HOWEVER, I WOULD LIKE TO THANK SENATOR BROCK ADAMS, SENATOR PHIL GRAHAM AND OTHER COMMITTEE MEMBERS FOR YOUR UNDERSTANDING. YOU HAVE OFTEN DEFENDED THE DISTRICT WHEN OTHERS HAVE NOT AND I GREATLY APPRECIATE YOUR SUPPORT. SENATOR ADAMS YOU HAVE BEEN A STRONG SUPPORTER OF HOME RULE FROM THE VERY BEGINNING AND THAT SUPPORT HAS CONTINUED. I THANK YOU FOR THAT.

I KNOW THAT LABORING OVER DISTRICT ISSUES CAN BE A THANKLESS JOB. YOUR COLLEAGUES MUST CONTINUALLY ASK YOU WHY YOU ARE SO SUPPORTIVE OF OUR EFFORTS, AND I AM SURE THAT IT IS NOT ALWAYS EASY TO CONVINCE THEM OF THE DIFFICULTY AND COMPLEXITY OF OUR GOVERNMENT. I LOOK FORWARD, AS I BELIEVE YOU DO, TO THE DAY WHEN THE DISTRICT HAS A GREATER DEGREE OF SELF-GOVERNMENT THAN IT NOW HAS, SO THAT THESE HEARINGS WILL NO LONGER BE NECESSARY.

MR. CHAIRMAN, THE DISTRICT GOVERNMENT IS THE MOST COMPLEX GOVERNMENTAL ENTITY IN AMERICA. WE ARE NOT COMPARABLE TO CITIES OR COUNTIES IN YOUR HOME STATES OR, FOR THAT MATTER, TO YOUR OWN STATE GOVERNMENTS. WE PERFORM A MULTIPLICITY OF STATE AND LOCAL FUNCTIONS.

UNLIKE OTHER CITIES OR COUNTIES, FOR EXAMPLE, WE HAVE TO MANAGE A STATE VEHICLE LICENSING PROGRAM, RUN A STATE HIGHWAY DEPARTMENT, DELIVER STATE MEDICARE AND AFDC SERVICES, MAINTAIN A STATE MENTAL HOSPITAL, FUND A STATE-LEVEL JUDICIARY, AND OPERATE STATE PRISON FACILITIES. UNLIKE OTHER STATES, HOWEVER, WE MUST HIRE TEACHERS AND FIREFIGHTERS, PUT POLICE OFFICERS ON THE BEAT, PROVIDE TRASH AND SANITATION SERVICES, AND MEET A VARIETY OF OTHER TYPICALLY COUNTY- OR MUNICIPAL-LEVEL CONCERNS.

I KNOW THAT THERE IS A MISPERCEPTION OUT THERE THAT THE DISTRICT GOVERNMENT HAS TOO MANY EMPLOYEES, BUT THE FACT IS WE HAVE TO HAVE THE PERSONNEL TO MEET ALL OF OUR RESPONSIBILITIES. MOREOVER, I THINK

YOU'LL FIND THAT OUR EMPLOYEES--IN TERMS OF PROFESSIONALISM, EDUCATION, EXPERIENCE, AND DEDICATION--ARE THE EQUAL OF THOSE TO BE FOUND ANYWHERE ELSE.

I WISH THAT SOME OF OUR CRITICS WOULD SPEND A FEW DAYS VISITING SOME OF OUR PROGRAMS AND THE PEOPLE THAT RUN THEM. WE OPERATE OVER 3,000 PROGRAMS THAT ARE JUST AS EFFICIENT AS OUR PARKING ENFORCEMENT EFFORTS.

ONE HAS ONLY TO LOOK AT OUR SENIOR CITIZENS PROGRAMS, OUR YEAR-ROUND AND SUMMER JOBS PROGRAMS, OUR WATER BILLING SYSTEM, OUR RESTAURANT INSPECTIONS, OUR RECREATION DEPARTMENT'S OUTREACH PROGRAMS TO TROUBLED YOUTH, OUR WELL-RUN ELECTIONS, THE COMPREHENSIVE PLANNING AND ZONING PROCESS, OUR SPEEDY INCOME TAX REFUNDS, THE AWARD WINNING BLUE PLAINS TREATMENT PLANT, OUR FIRST CLASS FIRE DEPARTMENT, AND OUR TRASH PICK-UP, AS WELL AS THE OVERWHELMING MAJORITY OF THE REST OF THE PROGRAMS WE RUN.

I THINK THE PROBLEM IS NOT THAT WE DO TOO LITTLE, BUT THAT WE DO TOO MUCH. WE DO MORE IN THE DISTRICT BECAUSE THERE IS MORE TO DO. WITH 20% OF THE REGION'S POPULATION, THE DISTRICT PROVIDES 77% OF THE REGION'S HOMELESS BEDS, THE DISTRICT PROVIDES PUBLIC ASSISTANCE TO 61% OF THE REGION'S AFDC POPULATION, WE TREAT 68% OF THOSE IN THE REGION WHO RECEIVE DRUG TREATMENT, AND WE HAVE 74% OF THE REGION'S PUBLIC HOUSING UNITS.

LET'S TAKE PUBLIC HOUSING. INSTEAD OF HAVING 74% OF THE REGION'S PUBLIC HOUSING UNITS, SUPPOSE WE JUST HAD 20%--OUR FAIR SHARE. THINK HOW EFFICIENT AND INNOVATIVE WE WOULD BE! THE SAME IS TRUE OF THE HOMELESS. BUT THE MAGNITUDE OF THE PROBLEMS ARE CONSIDERABLY GREATER HERE IN THE DISTRICT. THERE MUST BE SOME APPRECIATION OF OUR SITUATION, ESPECIALLY SINCE WE HAVE NO STATE GOVERNMENT TO TURN TO FOR ASSISTANCE. MARYLAND, FOR EXAMPLE, COLLECTS TAXES FROM THE WEALTHY SUBURBS OF BOTH BALTIMORE AND WASHINGTON, AND REDIRECTS MONEY TO THE HARD-PRESSED URBAN AREA OF BALTIMORE. WE DO NOT HAVE THIS OPTION IN THE DISTRICT.

DESPITE ALL THE OBSTACLES, HOWEVER, WE CONTINUE TO PERFORM MUCH BETTER THAN WE ARE USUALLY GIVEN CREDIT FOR. WE OFTEN HEAR OF A FISCAL "CRISIS" OR FISCAL "MESS" IN THE DISTRICT, BUT KEEP IN MIND THAT WE HAVE BALANCED OUR BUDGETS EIGHT OF THE LAST NINE FISCAL YEARS. UNDER THE CIRCUMSTANCES, THAT'S AN EXTRAORDINARY ACHIEVEMENT.

CONFLICTING FORCES AFFECTING THE BUDGET

OUR FISCAL YEAR 1991 REQUEST--JUST LIKE OUR REVISED FISCAL 1990 BUDGET AND THE APPROPRIATIONS REQUESTS OF RECENT YEARS--JUGGLES CONFLICTING PROGRAMMATIC AND FISCAL FORCES IN TRYING TO MAKE ENDS MEET. OUR BUDGET BALANCING PROCESS HAS BECOME COMPLICATED BY

- ESCALATING PROGRAM COSTS, PARTICULARLY FOR PUBLIC SAFETY, HEALTH AND HUMAN SERVICES, AND EDUCATION;

- LOWER-THAN-ANTICIPATED REVENUES, THE RESULT OF A GENERAL ECONOMIC SLOWDOWN AFFECTING THE DISTRICT AS WELL AS MANY OTHER STATES AND LOCALITIES; AND

- A GENERAL RELUCTANCE TO IMPLEMENT TAX MEASURES TO HELP FILL THE BUDGET GAPS AND SUSTAIN CURRENT SERVICES.

AS WITH OUR REVISED FISCAL YEAR 1990 BUDGET, EXPENDITURES HAVE BEEN CUT. MOREOVER, AFTER SUCCESSIVE YEARS OF EXTREMELY TIGHT MONEY MANAGEMENT BY THIS GOVERNMENT, OUR FISCAL 1991 REQUEST WILL REQUIRE ADDITIONAL, SOMETIMES PAINFUL SACRIFICES. SERVICE DELIVERY PLANS ARE DOWN TO "BARE BONES"LEVELS.

AS YOU PROBABLY KNOW, I PROPOSED BUDGETARY REDUCTIONS FOR THE REVISED FISCAL YEAR 1990 AND FISCAL YEAR 1991 BUDGETS I SENT TO THE COUNCIL. BUT I DISAGREED WITH THE EXTENT OF THE ADDITIONAL REDUCTIONS RECOMMENDED BY THE COUNCIL BECAUSE THEY REFUSED TO BITE THE BULLET AND PASS MY TAX PROPOSALS NEEDED TO INCREASE REVENUES. I ACCEPTED THEM AS A POLITICAL REALITY. HOWEVER, IN SEVERAL LETTERS TO THE COUNCIL DURING THE COUNCIL'S BUDGET REVIEW PROCESS, I INFORMED THE COUNCIL OF THE IMPACT THAT THESE CUTS WOULD HAVE ON PROGRAMS AND SERVICE DELIVERY.

THOSE REDUCTIONS WILL MEAN THAT HIRING RESTRICTIONS AND EXPENDITURE CONTROLS WILL HAVE TO BE TIGHTENED FURTHER. MANY PUBLIC SERVICES ARE LIKELY TO BE AFFECTED AS WE CONTINUE TO CONCENTRATE LIMITED RESOURCES ON OUR HIGHEST PRIORITY NEEDS. NEVERTHELESS, MY ADMINISTRATION WILL STRIVE TO MAKE EVERY DOLLAR COUNT.

BEFORE GETTING INTO THE SPECIFICS OF OUR BUDGET REQUESTS, I WANT TO TAKE ADVANTAGE OF THIS OPPORTUNITY TO ADDRESS OUR LONG-STANDING FEDERAL PAYMENT CONCERN AND OTHER ISSUES OF MUTUAL INTEREST, INCLUDING THE RECENT DOWNGRADING OF THE CITY'S STANDARD & POORS GENERAL OBLIGATION BOND RATING, OUR PROGRESS IN CONTROLLING PERSONNEL GROWTH, AND THE STATUS OF THE SPECIAL FEDERAL INITIATIVE FUNDING.

FEDERAL PAYMENT CONCERNS

IN REGARD TO THE FEDERAL PAYMENT TO THE DISTRICT--WHICH HAS REMAINED VIRTUALLY UNCHANGED SINCE FISCAL YEAR 1985--WE HAVE SEVERAL CRITICALLY IMPORTANT CONCERNS:

(1) THE PAYMENT IS STEADILY SHRINKING AS A SHARE OF OUR GROWING BUDGETARY NEEDS, FROM OVER 20 PERCENT IN FISCAL YEAR 1985 TO ABOUT 13 PERCENT IN FISCAL YEAR 1991;

(2) IT IS UNRELIABLE AND SUBJECT TO LAST-MINUTE REDUCTIONS AT THE WHIM OF BUDGET SEQUESTRATION, THUS COMPOUNDING INSUFFICIENCY WITH UNCERTAINTY; AND

(3) BECAUSE OF ITS INADEQUACY, TAX BURDENS ON DISTRICT RESIDENTS AND BUSINESSES ARE HEAVIER THAN THEY SHOULD BE.

THIS CITY'S REVENUES ARE ALSO AFFECTED BY FEDERAL RESTRICTIONS. PROHIBITIONS ON COMMUTER TAXES, CONGRESSIONALLY ESTABLISHED EXEMPTIONS FOR FOREIGN AND DIPLOMATIC PROPERTY, AND FEDERAL OWNERSHIP OR USE OF ABOUT 42 PERCENT OF ALL REAL PROPERTY ALL RESULT IN A LOST ESTIMATED AT ABOUT $1.8 BILLION AT THE 1990 TAX-YEAR RATES. IF THE DISTRICT'S TAX BASE INCLUDED THOSE PROPERTIES AND INCOME, THE CURRENT PROPERTY AND INCOME TAX BURDENS COULD BE LOWERED ON AVERAGE BY 52 PERCENT AND STILL

GENERATE THE SAME AMOUNT OF LOCAL REVENUE THAT IS POSSIBLE WITH THE CURRENT RESTRICTED BASE.

GIVEN THE FLAT FEDERAL PAYMENT AND OUR OTHER FEDERAL REVENUE-RAISING CONSTRAINTS, SINCE 1985 THE DISTRICT HAS BEEN COMPELLED TO:

- RAISE TAX RATES ON RESTAURANT MEALS AND ALCOHOLIC BEVERAGES (FROM 8 PERCENT TO 9 PERCENT), ON CIGARETTES (FROM 13 CENTS TO 17 CENTS PER PACK), ON HOTEL ACCOMMODATIONS (FROM 10 PERCENT TO 11 PERCENT), ON CORPORATIONS (FROM A 2.5 PERCENT SURTAX TO A 5 PERCENT SURTAX), AND ON REAL ESTATE TRANSFERS (FROM 1 PERCENT TO 1.1 PERCENT);

- ENACT NEW TAXES ON TELECOMMUNICATIONS AND THE TRANSFER OF ECONOMIC INTERESTS (BOTH NOW AT 1.1 PERCENT); AND

- EXTEND THE SALES TAX BASE TO DATA PROCESSING AND REAL PROPERTY SERVICES (TAXED AT A 6 PERCENT RATE).

IN ADDITION, THE DISTRICT HAS CONDUCTED A TAX AMNESTY PROGRAM AND GREATLY INCREASED RESOURCES DEVOTED TO TAX AUDITS AND COMPLIANCE. AND WE ARE NOW ABOUT TO PROPOSE A SIGNIFICANT INCREASE IN THE TAX RATE ON VACANT PROPERTIES TO GENERATE $39 MILLION IN FISCAL YEAR 1991.

THE ESTIMATED FULL-YEAR REVENUE FROM THE ABOVE MEASURES (EXCLUDING THE VACANT PROPERTY TAX) TOTALLED MORE THAN $100 MILLION AT THE TIME OF THEIR ENACTMENT. OVERALL, LOCAL-SOURCE REVENUES WILL HAVE GROWN BY ABOUT $1.1 BILLION, OR 64 PERCENT, SINCE 1985, WHILE THE FEDERAL PAYMENT HAS STAGNATED. THERE CAN BE NO DOUBT THAT DISTRICT TAXPAYERS ARE BEING LEFT TO PICK UP THE TAB.

THE LACK OF A FORMULA-BASED PAYMENT COSTS THE DISTRICT IN OTHER WAYS AS WELL. AS I WILL DISCUSS FURTHER LATER, OUR FEDERAL PAYMENT SITUATION CONTINUES TO IMPEDE THE DISTRICT'S ABILITY TO SECURE HIGHER INVESTMENT-GRADE, LONG-TERM BOND RATINGS, WHICH RESULT IN HIGHER BORROWING COSTS.

RIGHTING THE WRONG

THE STATIC FEDERAL PAYMENT IS ENDANGERING THE DISTRICT'S FINANCIAL HEALTH. A REMEDY IS URGENTLY NEEDED, AND I AM TRANSMITTING TO DELEGATE FAUNTROY A PROPOSAL TO RIGHT THIS FISCAL WRONG. WE ARE ALREADY SUFFERING FROM FEDERAL RESTRICTIONS OF A NON-RESIDENT INCOME TAX, A 130 FOOT HEIGHT LIMITATION ON CONSTRUCTION AND THE FACT THAT HALF OF THE CITY'S LAND IS TAX EXEMPT.

OUR PROPOSED BILL WOULD ESTABLISH A FORMULA FOR SETTING THE AUTHORIZED FEDERAL PAYMENT AT 30 PERCENT OF THE DISTRICT'S OWN-SOURCE, GENERAL FUND REVENUE FOR THE SECOND PRECEDING YEAR.

WE ARE RECOMMENDING THE SECOND-PRECEDING-YEAR AS THE REVENUE BASIS BECAUSE THAT WOULD BE THE MOST RECENT YEAR FOR WHICH FULLY AUDITED REVENUE NUMBERS FOR THE CITY WOULD BE AVAILABLE. THE 30 PERCENT FIGURE REPRESENTS THE RATIO OF THE FEDERAL PAYMENT FOR FISCAL 1985 (THE YEAR IT STOPPED GROWING) TO THE DISTRICT'S OWN-SOURCE REVENUE FOR FISCAL 1983 (THE SECOND PRECEDING YEAR). IF SO APPROPRIATED, THE FISCAL YEAR 1991 FEDERAL PAYMENT TO THE DISTRICT WOULD BE $710 MILLION, RATHER THAN THE CURRENTLY AUTHORIZED $425 MILLION OR THE $430.5 MILLION PROPOSED BY THE PRESIDENT.

OUR PROPOSED BILL WOULD ALSO AUTHORIZE A ONE-TIME SPECIAL FEDERAL PAYMENT OF $213.4 MILLION IN FISCAL YEAR 1991 AS PARTIAL RECOMPENSE FOR THE CUMULATIVE FEDERAL PAYMENT LOSS OF $635 MILLION SINCE 1985. THE PROPOSED AMOUNT EQUALS THE ACCUMULATED GENERAL FUND DEFICIT AS OF SEPTEMBER 30, 1989.

THIS ONE-TIME SPECIAL PAYMENT IS JUSTIFIABLE ON AT LEAST TWO GROUNDS:

- AT A MINIMUM, $200 MILLION OF THE $378 MILLION DEFICIT REVEALED BY THE DISTRICT'S FIRST HOME-RULE AUDIT ORIGINATED BEFORE HOME RULE WHEN THE DISTRICT WAS UNDER THE FEDERAL AEGIS AND FOLLOWED FEDERAL BUDGETARY PRACTICES; AND

- BY KEEPING THE FEDERAL PAYMENT FLAT OVER THE LAST SIX YEARS, THE FEDERAL GOVERNMENT SERIOUSLY INHIBITED THE DISTRICT'S ABILITY TO REDUCE THE DEFICIT.

I HOPE THAT THE COMMITTEE WILL SUPPORT OUR PROPOSED ANNUAL PAYMENT FORMULA AND THE SPECIAL, ONE-TIME CATCH-UP COMPENSATION PAYMENT.

MY STAFF AND I WILL BE AVAILABLE TO WORK WITH YOU ON THIS IMPORTANT, MUTUAL CONCERN.

SEQUESTRATION OF THE FEDERAL PAYMENT ISSUE

REGARDLESS OF HOW THE FORMULA IS CALCULATED, THE MATTER OF THE SEQUESTRATION OF FEDERAL PAYMENT FUNDS IS LIKELY TO REMAIN A VERY SERIOUS CONCERN—UNLESS REMEDIAL ACTION IS TAKEN. AT WORST, THE DISTRICT COULD SUSTAIN A $66 MILLION LOSS IN REVENUE.

LET US BE CLEAR ABOUT ONE THING: THE FEDERAL PAYMENT IS NOT A GIFT OR A GRANT TO THE CITY. IT IS COMPENSATION--AND AN INADEQUATE ONE AT THAT--FOR REAL COSTS AND REAL REVENUE LOSSES BORNE BY THE CITY BECAUSE OF THE FEDERAL PRESENCE AND SPECIAL CONGRESSIONAL RESTRICTIONS. TAXES FOREGONE BECAUSE OF THE FEDERAL PRESENCE ARE ESTIMATED TO BE NEARLY $1.8 BILLION IN FISCAL YEAR 1990.

MOREOVER, IT IS DIFFICULT TO RECONCILE CONGRESSIONAL EXPECTATIONS OF SOUND FINANCIAL PLANNING AND MANAGEMENT BY THE DISTRICT WITH THREATS OF HAVING THE REVENUE CARPET YANKED OUT FROM UNDER THE CITY AT EVERY TURN OF NATIONAL BUDGET POLITICS. I KNOW OF NO OTHER CITY IN THIS COUNTRY SUBJECT TO LOSING A SIZABLE PART OF ITS REVENUE AT THE MERE STROKE OF PEN.

YET, THAT IS EXACTLY THE SITUATION THE DISTRICT MAY FACE AGAIN THIS YEAR AS A RESULT OF FISCAL 1991 FEDERAL BUDGET PROBLEMS. SEQUESTRATION IS LIKE HAVING THE CITY TAXPAYERS SIMPLY DECLINE TO PAY WHATEVER PORTION OF THEIR TAX BILLS THEY WOULD RATHER SPEND ON SOMETHING ELSE. NO CITY CAN OPERATE THAT WAY. NOR SHOULD ANY CITY HAVE TO OPERATE THAT WAY.

WITH ALL DUE RESPECT, THE DISTRICT HAS BEEN HELD HOSTAGE LONG ENOUGH. THE CONGRESS NEEDS TO DO THE RIGHT THING, AND FREE THE FEDERAL PAYMENT FROM THE VAGARIES OF "DISCRETIONARY" DEFICIT REDUCTION CUTBACKS.

REQUIRING THE DISTRICT TO FUND RETIREMENT COLAS

WE ALSO TAKE ISSUE WITH THE PRESIDENT'S RENEWED PROPOSAL TO INCREASE THE DISTRICT'S U.S. CIVIL SERVICE RETIREMENT CONTRIBUTION. THE PRESIDENT'S FISCAL YEAR 1991 BUDGET WOULD REQUIRE THE DISTRICT TO FUND NEW LIABILITIES CREATED BY COST-OF-LIVING ADJUSTMENTS TO ANNUITY BENEFITS.

OMB ESTIMATES THOSE COSTS TO BE $55 MILLION FOR FISCAL YEAR 1991, $61 MILLION FOR FISCAL 1992, $68 MILLION FOR FISCAL 1993, $75 MILLION FOR FISCAL 1994, AND $83 MILLION FOR FISCAL 1995. THE $68 MILLION FOR FISCAL 1991 IS NOT INCLUDED IN OUR BUDGET REQUEST.

WE OBJECTED TO SIMILAR SUCH PROPOSALS IN THE PRESIDENT'S FISCAL YEAR 1989 AND 1990 BUDGETS, AND WE OBJECT TO THIS LATEST PROPOSAL, TOO. AS WE TESTIFIED BEFORE, THE DISTRICT NEITHER DECIDES NOT CONTROLS THE LEVEL OF BENEFITS OR THE LEVEL OF FUNDING FOR THOSE BENEFITS AND SHOULD NOT BE HELD RESPONSIBLE FOR THE MANDATED COSTS. FURTHERMORE, IT IS DIFFICULT TO SEGREGATE BENEFITS ACCRUED TO DISTRICT ANNUITANTS BASED ON DISTRICT SERVICE VERSUS PRIOR FEDERAL SERVICE, INCLUDING MILITARY SERVICE. MOREOVER, MUCH OF THE LIABILITY FOR THESE RETIREMENT COSTS ACCRUED BEFORE HOME RULE AND SHOULD REMAIN A FEDERAL RESPONSIBILITY.

REQUIRING THE DISTRICT TO FUND HEALTH PREMIUMS FOR ANNUITANTS

IN ADDITION, FOR MUCH THE SAME REASONS WE OPPOSE THE PRESIDENT'S CONTINUED EFFORTS TO REQUIRE THE DISTRICT TO MAKE ANNUAL FEDERAL EMPLOYEE HEALTH BENEFIT PAYMENTS FOR DISTRICT ANNUITANTS AND SURVIVORS OF ANNUITANTS. TO MEET THIS COST, OMB ESTIMATES THAT THE DISTRICT WOULD HAVE TO PAY $37 MILLION IN FISCAL 1991 AND UP TO $59 MILLION BY FISCAL 1995. OUR FISCAL YEAR 1991 REQUEST DOES NOT INCLUDE THE $37 MILLION.

AS WE TESTIFIED BEFORE, THE DISTRICT SHOULD NOT BE FORCED TO BEAR THE COSTS OF A HEALTH BENEFIT PLAN THAT IT NEITHER DESIGNED NOR REQUESTED. THE DISTRICT INHERITED THE BENEFITS PROGRAM, INCLUDING THE PRESENT FINANCING ARRANGEMENTS, FROM THE FEDERAL GOVERNMENT AT THE TIME OF HOME RULE. ALSO, MANY OF THE PLAN'S BENEFICIARIES WHO WERE ANNUITANTS AT THE TIME OF HOME RULE OR WHO RETIRED SINCE THEN WORKED AT VARIOUS TIMES FOR BOTH THE FEDERAL GOVERNMENT (INCLUDING MILITARY SERVICE) AND THE DISTRICT GOVERNMENT. AS WITH THE RETIREMENT ANNUITIES, IT IS DIFFICULT TO DETERMINE WHICH BENEFITS AND COSTS SHOULD BE ASSOCIATED WITH WHICH GOVERNMENT. IN ANY CASE, THE DISTRICT SHOULD NOT BE SUBJECT TO THIS LEGISLATION.

BOND RATING DOWNGRADE

THE NEED FOR A RELIABLE AND EQUITABLE FEDERAL PAYMENT PROCESS IS EVIDENT IN STANDARD & POORS' RECENT DOWNGRADING OF THE DISTRICT GENERAL OBLIGATION BOND RATING FROM "A" TO "A-." IN ANNOUNCING ITS DECISION, THE RATING AGENCY CITED REASONS SUCH AS THE TREMENDOUS GROWTH EXPERIENCED BY THE DISTRICT IN ITS PUBLIC SAFETY AND HUMAN SERVICES SPENDING REQUIREMENTS, THE REVENUE LOST BECAUSE OF THE GENERAL ECONOMIC DOWNTURN, AND THE ONGOING FISCAL STRESS TO THE CITY CAUSED BY ITS ATTEMPTS TO BALANCE BUDGETS WHILE SUSTAINING KEY SERVICES.

STANDARD & POORS ALSO SPECIFICALLY NOTED THAT THE DISTRICT HAD NOT BEEN SUCCESSFUL IN ITS EFFORTS TO GENERATE SUFFICIENT ADDITIONAL LOCAL REVENUE TO OFFSET THE RELATIVE DECLINE IN THE FEDERAL PAYMENT. HOWEVER, THE DISTRICT COUNCIL, UNDER THE LEADERSHIP OF ITS CHAIRMAN, HAS REFUSED TO RECOGNIZE THE HARSH REALITY OF OUR REVENUE SITUATION.

A TAX HIKE HAS NEVER BEEN A POLITICIAN'S BEST FRIEND, BUT EVEN IN AN ELECTION YEAR I SUMMONED THE COURAGE TO PROPOSE THEM. I WISH THE COUNCIL WOULD TAKE THE HINT FROM STANDARD & POORS REPORT, BITE THE TAX BULLET, AND GET ON WITH THE BUSINESS OF PUTTING THE DISTRICT ON A PROPER FINANCIAL FOOTING.

OUR LAST BOND ISSUE RECEIVED A TRIPLE-A RATING ONLY BECAUSE WE INSURED IT. THUS, ONE WAY OR ANOTHER, THE DOWNGRADING OF THE DISTRICT'S BOND RATING WILL CAUSE HIGHER COSTS FOR OUR FUTURE BOND ISSUES.

WE WILL CONTINUE TO DO EVERYTHING POSSIBLE TO MEET OUR REQUIREMENTS, BALANCE OUR BUDGETS, AND REASSURE THE FINANCIAL COMMUNITY. HOWEVER, IT ALL WOULD BE A LOT EASIER IF THE COMMITTEE COULD HELP US RESOLVE THE IMPORTANT FEDERAL PAYMENT ISSUE.

CONTROLLING THE SIZE OF GOVERNMENT

IN THE CONTINUING BATTLE TO KEEP BUDGETS BALANCED AND MAINTAIN THE HIGHEST POSSIBLE CREDIT RATING, THE DISTRICT HAS UNDERTAKEN TO DOWNSIZE THE GOVERNMENT. NEVERTHELESS, THE MEDIA-PRESENTED IMAGE OF THE DISTRICT GOVERNMENT CONTINUES TO BE ONE OF AN EVER-GROWING, "BLOATED" BUREAUCRACY.

I FEAR SOME MEMBERS OF THIS COMMITTEE SHARE THAT BELIEF AND MAY BE THINKING, "WHY SHOULD THE CONGRESS INCREASE THE FEDERAL PAYMENT WHEN THE DISTRICT IS DOING NOTHING ABOUT REDUCING THE SIZE OF ITS GOVERNMENT?"

WELL, I WOULD LIKE TO DISPEL THE "BLOATED" GOVERNMENT MYTH HERE AND NOW. AS I DISCUSSED EARLIER, THE DISTRICT IS A STATE, COUNTY, AND MUNICIPAL GOVERNMENT ALL ROLLED INTO ONE. IT SHOULD COME AS NO SURPRISE, THEREFORE, THAT THE DISTRICT MUST EMPLOY MORE WORKERS AND MORE KINDS OF WORKERS THAN SO-CALLED "COMPARABLE" JURISDICTIONS.

FURTHERMORE, IN THE 10 YEARS AFTER THE ESTABLISHMENT OF HOME RULE (FROM 1975 THROUGH 1984), THIS GOVERNMENT TRIMMED MORE THAN 25 PERCENT OF ITS AUTHORIZED POSITIONS FROM THE BUDGET. OVER 11,000 POSITIONS WERE ELIMINATED.

SINCE THAT TIME, THE TREND HAS REVERSED SOMEWHAT. BUT THAT DOES NOT MEAN THAT THIS GOVERNMENT HAS BEEN PADDING THE PAYROLL WITH EXCESS EMPLOYEES. OF A NET INCREASE OF 9,300 POSITIONS IN THE CITY'S APPROPRIATED BUDGET FROM FISCAL 1985 THROUGH THE FISCAL 1991 REQUEST, MOST ARE IN THE HIGH-PRIORITY AREAS OF PUBLIC SAFETY, HUMAN SERVICES, OR PUBLIC EDUCATION. ALMOST HALF OF THE POSITION INCREASES, OR 4,200, ARE THE DIRECT RESULT OF FEDERAL MANDATES. HERE'S A BREAK OUT OF THE MAJOR POSITION INCREASES, INCLUDING THE FEDERAL MANDATES:

- +3,500 MENTAL HOSPITAL WORKERS--FORMER FEDERAL EMPLOYEES OF SAINT ELIZABETHS HOSPITAL--ADDED AT THE DIRECTION OF THE PRESIDENT AND OMB WHEN THE CITY ASSUMED CONTROL OF THE HOSPITAL IN 1988 (WE HAD NO CONTROL OVER THE ADDITION OF THESE POSITIONS.);

- +1,568 POLICE OFFICERS AND SUPPORT STAFF ADDED TO REINFORCE THE FRONT LINE IN THE WAR ON DRUGS (700 OF WHICH WERE MANDATED BY THE CONGRESS IN THE APPROVED FISCAL YEAR 1990 BUDGET);

- +371 FIREFIGHTERS, EMERGENCY MEDICAL STAFF, AND RELATED PERSONNEL ADDED TO STRENGTHEN EMERGENCY SERVICES;

- +1,247 CORRECTIONAL SYSTEM OFFICERS REQUIRED TO MAINTAIN A SAFE ENVIRONMENT FOR A GROWING INCARCERATED POPULATION; AND

- +1,392 PUBLIC SCHOOL SYSTEM POSITIONS NEEDED TO ENSURE A FIRST-CLASS EDUCATIONAL OPPORTUNITY FOR OUR CHILDREN.

THE ABOVE NEW POSITIONS ACCOUNT FOR ABOUT 87 PERCENT OF THE 9,300 NET POSITION INCREASE FOR THE FISCAL YEAR 1985 THROUGH FISCAL YEAR 1991 PERIOD. THEY ARE ALL EITHER WIDELY SUPPORTED BY THE PUBLIC OR REQUIRED BY THE CONGRESS. IN ANY CASE, THEY DO NOT MAKE A CASE FOR AN EVER-GROWING, "BLOATED" BUREAUCRACY.

IN FACT, THE RECENT INCREASES DISGUISE WHAT IS HAPPENING IN MOST OF THE REST OF THE GOVERNMENT, WHICH IS PLAGUED BY STRINGENT HIRING RESTRICTIONS AND POSITION REDUCTIONS. OUR FISCAL 1991 BUDGET REQUESTS A REDUCTION OF 367 POSITIONS FROM THE BASE BUDGET, INCLUDING 318 POSITIONS AT THE DS-11 OR ABOVE LEVEL. WE ARE SACRIFICING THESE MID-LEVEL MANAGERIAL POSITIONS TO FURTHER OUR DOWN-SIZING EFFORTS AND TO FREE-UP RESOURCES FOR BADLY NEEDED ADDITIONAL FRONT-LINE SERVICE PERSONNEL.

THUS, WHILE OUR FISCAL 1991 BUDGET ALSO REQUESTS OVER 900 NEW POSITIONS, THOSE POSITIONS ARE TO EXTEND SERVICES IN KEY HIGH-PRIORITY AREAS: 98 IN PUBLIC SAFETY, 114 IN EDUCATION, AND 700 IN HUMAN SERVICES. THE BIG INCREASE REQUESTED IN HUMAN SERVICES POSITIONS UNDERSCORES ANOTHER WAY IN WHICH THE DISTRICT IS NOT COMPARABLE TO STATES AND VARIOUS OTHER JURISDICTIONS: IT IS HOME TO A LARGE CONCENTRATION OF PEOPLE LIVING IN POVERTY, AND ITS CONGRESSIONALLY FIXED GEOGRAPHIC SIZE PROHIBITED THE ANNEXATION OF AFFLUENT SUBURBS (AS OTHER CITIES WERE ABLE TO DO) TO EXPAND THE TAX BASE AND SHARE THE BURDEN.

BECAUSE OF CUTBACKS VIRTUALLY ACROSS THE GOVERNMENT, WE HAVE TOO FEW WORKERS. MOREOVER, THEY ARE WORKING UNDER DIFFICULT CONDITIONS AND FREQUENTLY DOING DOUBLE DUTY. I AM PROUD OF THEM, BUT THEY ARE NOT GETTING THE RECOGNITION THEY DESERVE.

FISCAL YEAR 1990 CENSUS AND LORTON INMATES

I ALSO WANT TO MENTION THAT THE DISTRICT OF COLUMBIA IS THE ONLY JURISDICTION (WITH STATE GOVERNMENT RESPONSIBILITIES) WITH A SUBSTANTIAL PRISON INMATE POPULATION HOUSED OUTSIDE ITS OWN BORDERS. WITH THE TABULATION OF THE 1990 CENSUS, THIS CIRCUMSTANCE CAN PROVE DEVASTATING TO THE DISTRICT. LORTON'S INMATE POPULATION OF NEARLY 7000 WILL BE CONSIDERED PART OF VIRGINIA'S POPULATION. THE DISTRICT WILL LOSE UP TO $60 MILLION IN FEDERAL FUNDS DURING THE 1990'S BECAUSE IT IS UNABLE TO COUNT ITS OWN CITIZENS FOR WHICH IT BEARS FULL AND TOTAL FISCAL AND SOCIAL RESPONSIBILITY.

I HOPE YOU CAN HELP US WITH THIS PROBLEM.

PUBLIC SAFETY

BEFORE TURNING ATTENTION TO THE SPECIFICS OF THE FISCAL YEAR 1991 BUDGET REQUEST NOW BEFORE THE COMMITTEE, I WANT TO QUICKLY ADDRESS SOME PUBLIC SAFETY ISSUES. I'LL REVIEW PROGRESS TOWARD COMPLETION OF THE NEW CORRECTIONAL TREATMENT FACILITY, OUR EMPHASIS ON PUBLIC SAFETY FUNDING, AND THE STATUS OF THE SPECIAL FEDERAL INITIATIVE.

CORRECTIONAL TREATMENT FACILITY PROGRESS

I KNOW THAT THE COMMITTEE IS VITALLY INTERESTED IN THE NEW 700-BED CORRECTIONAL TREATMENT FACILITY, AND I AM PLEASED TO REPORT THAT WE HAVE MADE SIGNIFICANT PROGRESS.

AFTER OVERCOMING CONGRESSIONAL SITE-SELECTION DELAYS AND A LEGAL CHALLENGE TO THE DEMOLITION OF THE OLD GALLINGER HOSPITAL ON THE CHOSEN SITE, THIS GOVERNMENT PROCEEDED EXPEDITIOUSLY. CONSTRUCTION OF THE FACILITY IS NOW ABOUT 50 PERCENT COMPLETE AND WILL BE FULLY COMPLETED BY NOVEMBER OF NEXT YEAR.

PUBLIC SAFETY FUNDING PRIORITIES

THERE HAS BEEN SOME CRITICISM LATELY THAT THIS GOVERNMENT HAS NOT PLACED SUFFICIENT PRIORITY ON MEETING PUBLIC SAFETY NEEDS. THE FACTS OF THE MATTER DO NOT SUPPORT ANY SUCH CONTENTION.

BY FAR, THE FASTEST GROWING AREA OF THE BUDGET HAS BEEN THE PUBLIC SAFETY AND JUSTICE APPROPRIATION TITLE. WITH OUR FISCAL YEAR 1991 REQUEST, THE OVERALL BUDGET WILL HAVE GROWN BY ABOUT 56 PERCENT SINCE FISCAL 1985--PRIMARILY BECAUSE OF PUBLIC SAFETY AS WELL AS HUMAN SUPPORT NEEDS. HOWEVER, PUBLIC SAFETY FUNDING WILL HAVE GROWN BY 72 PERCENT IN THE SAME TIME PERIOD.

LEADING THE PACK IS THE DEPARTMENT OF CORRECTIONS WITH AN 85 PERCENT INCREASE (FROM $136.6 MILLION TO $252.7 MILLION), THE METROPOLITAN POLICE DEPARTMENT WITH 70 PERCENT (FROM $151.7 MILLION TO $257.2 MILLION), AND THE FIRE AND AMBULANCE SERVICE WITH 64 PERCENT (FROM $62.3 MILLION TO $101.9 MILLION). OUR COURT SYSTEM, PAROLE, AND PRETRIAL SERVICE FUNCTIONS ALSO INCREASED GREATLY.

OUR GREATLY INCREASED OPERATING BUDGET SPENDING, PARTICULARLY FOR THE POLICE AND COURT SYSTEM, ALSO HAS NECESSITATED EXPANDED CAPITAL PROGRAM SPENDING FOR THE CORRECTIONAL SYSTEM. SINCE FISCAL 1981, WE HAVE APPROPRIATED $340.7 MILLION IN CAPITAL FUNDING FOR THE DEPARTMENT OF CORRECTIONS AND ADDED MORE THAN 4,000 ADDITIONAL INMATE BEDS.

AS EVIDENCED BY OUR OTHER MAJOR BUDGET-BUSTING CONCERN—FUNDING FOR HUMAN SUPPORT SERVICES—WE HAVE ADDITIONAL RESPONSIBILITIES TO MEET AS WELL. WE CANNOT DEVOTE EVERY DIME TO PUBLIC SAFETY. IN FACT, WE FIRMLY BELIEVE THAT INVESTMENTS IN EDUCATION, HOUSING, SOCIAL SERVICES, JOB TRAINING, AND COMMUNITY DEVELOPMENT CAN REDUCE SPENDING NEEDS FOR THE POLICE DEPARTMENT, THE COURT SYSTEM, THE CORRECTIONAL SYSTEM, AND OTHER PUBLIC SAFETY-RELATED PROGRAMS.

MY ADMINISTRATION IS COMMITTED TO A BALANCED APPROACH TO PUBLIC SAFETY THAT FOCUSES ON LONG-TERM RESULTS. WE ARE GETTING THE UPPER HAND ON MOST TYPES OF CRIME IN THIS CITY THROUGH TOUGH LAW ENFORCEMENT AND COMPASSIONATE PROGRAMS TO AMELIORATE CONDITIONS THAT BREED CRIME.

I THINK THAT AS WE CONTINUE TO PUT MORE OFFICERS ON THE STREET AND PROVIDE NEEDED HUMAN SUPPORT PROGRAMS, WE WILL ALSO CONQUER THE HOMICIDE PROBLEM AS WELL.

THUS, IN KEEPING WITH OUR APPROACH, WE WILL DO ALL THAT WE CAN TO SUSTAIN OUR COMMUNITY DEVELOPMENT AND PEOPLE-EMPOWERING, SELF-SUFFICIENCY PROGRAMS. BUT AS WE WORK TOWARD A BETTER TOMORROW, WE WILL ALSO CONTINUE TO PROTECT OUR CITIZENS, BUSINESSES, AND VISITORS THIS DAY AND EVERY DAY, WITH WHATEVER RESOURCES WE CAN COMMAND.

BEFORE PROCEEDING FURTHER, I WANT TO THANK YOU, MR. CHAIRMAN, AND THE REST OF THE MEMBERS OF THE COMMITTEE FOR YOUR EFFORTS IN APPROVING SPECIAL FUNDING FOR THE CITY'S CRIME-FIGHTING EFFORTS. ITS BEGINNING TO MAKE A DIFFERENCE.

RECRUITMENT REPORT

IT IS APPROPRIATE, THEREFORE (AND TIMELY, GIVEN RECENT EVENTS), THAT I REVIEW WITH YOU THE STATUS OF OUR POLICE RECRUITMENT DRIVE AND REPORT ON A VERY MUCH RELATED TOPIC, POLICE OVERTIME EXPENDITURES. I'LL BEGIN WITH OUR RECRUITMENT EFFORTS.

I AM PLEASED TO REPORT THAT OUR PROGRESS IS GOOD. MOREOVER, DESPITE THE UNPRECEDENTED NUMBER OF NEW RECRUITS SOUGHT, WE HAVEN'T LOWERED OUR STANDARDS ONE IOTA TO GET THEM. THE TOTAL HIRED FOR THE YEAR-TO-DATE

IS 657, BUILDING THE DEPARTMENT'S UNIFORMED STRENGTH TO 4,402 SWORN OFFICERS AS OF MAY 22, 1990.

ON MAY 7 OF THIS YEAR, WE ACHIEVED THE CONGRESSIONAL HIRING MANDATE OF 4,355 UNIFORMED MEMBERS, WHICH ALLOWED US TO ACCESS THE $17.6 MILLION IN SPECIAL FEDERAL INITIATIVE FUNDING TO CONTINUE TO EXPAND OUR RECRUITING EFFORTS.

FOR THE REMAINDER OF THIS YEAR, WE HAVE SET A GOAL OF AN AVERAGE OF 170 NEW RECRUITS PER MONTH ACCOUNTING FOR ATTRITION TO REACH THE CONGRESSIONAL MANDATE OF 5,055. I'M OPTIMISTIC THAT WE CAN ACHIEVE THAT RATE. THE NEW OFFICERS SHOULD ALLOW US TO CUT BACK ON COSTLY OVERTIME SPENDING AND PROVIDE MORE EFFECTIVE NEIGHBORHOOD COVERAGE.

AS WE WORK TO REACH THE 5,055-MEMBER MARK, WE ARE TAKING STEPS TO MANAGE THE LARGE INFLUX OF OFFICERS AND THE CONSEQUENT SHOCK TO RELATED PERSONNEL AND PROCUREMENT OPERATIONS. IN PARTICULAR, THE DEPARTMENT OF ADMINISTRATIVE SERVICES IS COOPERATING WITH THE POLICE DEPARTMENT TO STREAMLINE PROCEDURES FOR PURCHASING EQUIPMENT, AUTOMOBILES, AND TECHNOLOGY.

I SHOULD EMPHASIZE, HOWEVER, THAT RECENT NEWS MEDIA ACCOUNTS OF SHORTAGES OF TYPEWRITERS, PORTABLE RADIOS, COMPUTERS, AND VEHICLES HAVE NOT BEEN ACCURATE. IN FACT, BECAUSE OF SUBSTANTIALLY INCREASED EQUIPMENT PURCHASES IN RECENT YEARS, NONE OF THESE ITEMS IS IN SHORT SUPPLY. MOREOVER, OUR VEHICLE FLEET IS IN THE BEST CONDITION IT HAS BEEN IN MANY YEARS.

OVERTIME SPENDING ISSUE

I THINK THAT THE ISSUE OF OVERTIME POLICE SPENDING, WHICH IS CLOSELY RELATED TO OUR RECRUITMENT EFFORTS, HAS BEEN SOMEWHAT DISTORTED BY THE MEDIA OF LATE. LET'S TAKE A MOMENT TO LOOK AT SOME OF THE FACTS. THE METROPOLITAN POLICE DEPARTMENT'S OVERTIME SPENDING IN FISCAL YEAR 1989 TOTALLED $21.8 MILLION. IN COMPARISON, THE DEPARTMENT HAS ALREADY SPENT $21.7 MILLION FOR THE CURRENT YEAR (AS OF MAY 22, 1990), WITH NEARLY FOUR AND ONE-HALF MONTHS YET TO GO.

THE FACT IS, WE ARE SPENDING MONEY —LOTS OF IT— ON POLICE OVERTIME. OUR FISCAL 1990 OVERTIME EXPENDITURE OF $21.7 MILLION BREAKOUTS AS FOLLOWS:

-PUBLIC HOUSING PATROL OVERTIME, $637,646
-GEORGETOWN DETAILS, $200,993
-HOMICIDE DETAILS, $567,891
-SEX OFFENSE AND ROBBERY DETAILS, $32,306
-TRAFFIC ENFORCEMENT OVERTIME DETAILS, $297,263
-RECRUITING BRANCH OVERTIME, $159,291
-ADMINISTRATIVE OVERTIME, $1,512,825
-COURT OVERTIME, $8,598,000
-CRIME BEAT OVERTIME, $9,757,802

THE ABOVE OVERTIME SPENDING INCLUDES $13.2 MILLION FOR PUBLIC SAFETY PROGRAMMING ACTIVITIES AND $8.5 MILLION FOR COURT OVERTIME COSTS. THE PROGRAM-RELATED OVERTIME HAS ENABLED THE DEPARTMENT TO MAINTAIN A HIGHLY VISIBLE, UNIFORMED PRESENCE ON OUR NEIGHBORHOOD STREETS AND TO BETTER CONTROL AND SUPPRESS CRIME.

NOW THAT WE ARE ABLE TO ACCESS THE $17 MILLION WE WILL BE USING SOME OF THOSE FUNDS FOR OVERTIME AS WELL AS TO CONTINUE THE HIRING OF THE 700 POLICE OFFICERS.

REPROGRAMMING ISSUE

AT THIS POINT I WOULD LIKE TO ADDRESS CONCERNS YOU MAY HAVE REGARDING THE POSSIBLE REPROGRAMMING OF THE $17.6 MILLION IN SPECIAL FEDERAL FUNDING APPROVED BY THE CONGRESS FOR HIRING 700 NEW D.C. POLICE OFFICERS. APPARENTLY, THERE IS SOME MISUNDERSTANDING ON THIS SUBJECT.

AS YOU KNOW, PUBLIC LAW 101-223, THE D.C. POLICE AUTHORIZATION AND EXPANSION ACT OF 1989, WHICH AUTHORIZED THE 700 POLICE OFFICERS, PROHIBITED THE DISTRICT FROM SPENDING ANY OF THE $17.6 MILLION UNTIL WE REACHED A POLICE OFFICER STRENGTH OF 4,355. AS I INDICATED EARLIER, WE JUST REACHED THAT LEVEL ON MAY 7, 1990.

IN THE MEANTIME, THERE WAS SOME CONCERN THAT WE SHOULD HAVE REQUESTED A REPROGRAMMING OF THESE FUNDS TO HELP FUND SOME OF OUR LOCAL CRIME-FIGHTING INITIATIVES, SUCH AS "OPERATION FIGHTBACK" AND "RECLAIMING OUR STREETS." HOWEVER, THIS WAS NOT POSSIBLE BECAUSE SECTION 103 OF THE GENERAL PROVISIONS OF THE D.C. APPROPRIATIONS ACT SPECIFICALLY STATES THAT FUNDS APPROPRIATED FOR THE METROPOLITAN POLICE DEPARTMENT ARE SET ASIDE EXCLUSIVELY FOR AND SHALL BE EXPENDED SOLELY BY THAT DEPARTMENT. THUS, A REPROGRAMMING WAS NOT POSSIBLE.

AS I HAVE TESTIFIED, WE HAVE MADE GREAT PROGRESS IN OUR POLICE RECRUITMENT EFFORTS, AND WE ARE CONSTANTLY RECRUITING FOR MORE. KEEPING OUR STREETS SAFE IS A TOP PRIORITY OF THIS GOVERNMENT. THUS, I WANT TO ASSURE THE MEMBERS OF THE COMMITTEE THAT WE HAVE MOVED FORWARD TO SPEND THE $17.6 MILLION FOR THE HIRING OF THE 700 OFFICERS AS WELL AS FOR OVERTIME EXPENSES TO REINFORCE THE POLICE PRESENCE IN THE COMMUNITY. I HOPE WE CAN PUT THIS MISUNDERSTANDING BEHIND US AND MOVE FORWARD. I WANT TO THANK THIS COMMITTEE FOR ITS CONTINUED SUPPORT IN OUR WAR AGAINST CRIME.

HUMAN SUPPORT SERVICES

HUMAN SUPPORT SERVICES IS ANOTHER PRIORITY AREA WHICH HAS STEADILY GROWN OVER THE LAST FIVE YEARS. IT HAS GROWN FROM $564.9 MILLION IN FISCAL YEAR 1985 TO $862.9 MILLION IN FISCAL YEAR 1991. THIS $300 MILLION INCREASE IS ATTRIBUTED TO ADDITIONAL FUNDING FOR DRUG TREATMENT AND DRUG EDUCATION PROGRAMS, FOSTER CARE, DAY CARE, THE HOMELESS, AFDC RECIPIENTS, AIDS PROGRAMS, MENTAL HEALTH PROGRAMS, THE OPERATION OF THE CITY'S PUBLIC HOSPITAL AND SAINT ELIZABETHS MENTAL HOSPITAL, THE OPERATION OF THE FOREST HAVEN FACILITY AND SENIOR CITIZENS PROGRAMS, YOUTH GROUP HOMES, ETC. I COULD GO ON NAMING COUNTLESS PROGRAMS.

HOWEVER, THESE ARE BUT A FEW OF THE PROGRAMS OPERATED BY THE HUMAN SUPPORT AGENCIES THAT IMPACT THE EVERYDAY LIVES OF THE CITIZENS OF THIS CITY THAT ARE THE LEFT OUT, THE PUT OUT, AND THE LESS FORTUNATE. WE ARE A COMPASSIONATE GOVERNMENT AND MUST DO ALL WE CAN TO ASSIST THESE CITIZENS.

FISCAL YEAR 1990 SUPPLEMENTAL BUDGET REVIEW

FOR THE RECORD, I WOULD LIKE TO HIGHLIGHT OUR FISCAL YEAR 1991 BUDGET REQUEST, AND THEN ANSWER ANY QUESTIONS YOU MAY HAVE. FIRST, HOWEVER, I WANT TO THANK THE COMMITTEE FOR ITS WORK ON OUR FISCAL YEAR 1990 SUPPLEMENTAL BUDGET, WHICH HAS GONE TO THE CONFERENCE COMMITTEE. I WILL QUICKLY REVIEW THE THRUST OF THAT REQUEST BECAUSE IT WAS IMPORTANT IN LAYING THE FOUNDATION FOR OUR FISCAL 1991 REQUEST.

YOU WILL RECALL THAT WE ESTIMATED A REVENUE SHORTFALL OF $43.2 MILLION AND ALSO HAD TO MEET VARIOUS UNBUDGETED NEEDS. OVERALL, WE PROPOSED $23.4 MILLION IN NEW REVENUE MEASURES AND A NET RESCISSION OF $19.8 MILLION FROM PLANNED EXPENDITURES.

THE $19.8 MILLION NET DECREASE WAS THE RESULT OF $60.2 MILLION IN REDUCTIONS PARTIALLY OFFSET BY $40.4 MILLION IN INCREASES. MOREOVER, THE SUPPLEMENTAL ALLOCATED $39.7 MILLION IN ACROSS-THE-BOARD RESCISSIONS THAT WERE PART OF THE ORIGINALLY APPROVED FISCAL YEAR 1990 BUDGET. THEREFORE, BASICALLY, OUR REQUEST WAS FOR A CUTBACK BUDGET.

AND IT MAY YET HAVE TO TRIMMED EVEN FURTHER THROUGH NEW SPENDING RESTRICTIONS BECAUSE OF OUR LATEST REVENUE FINDINGS. OUR APRIL REPORTS SHOW THAT WE ARE RUNNING $22.7 MILLION BEHIND THE SUPPLEMENTAL BUDGET'S GENERAL FUND REVENUE PROJECTIONS AND ANOTHER $5.4 MILLION IN THE WATER AND SEWER FUND. THE MOST SIGNIFICANT SHORTFALLS ARE IN THE SALES TAX OF $13.4 MILLION AND IN CORPORATE FRANCHISE TAX OF $10.8 MILLION. THESE SHORTFALLS REFLECT A WEAKENING ECONOMY IN THE DISTRICT AS IN OTHER CITIES AND STATES ON THE EAST COAST. WHEN ADDED TO THE PREVIOUS EXPECTED DECLINE OF $43.2 MILLION, THE LOSS OF REVENUE IS PLACING A TREMENDOUS STRAIN ON OUR BUDGET AND CASH FLOW POSITION, PARTICULARLY WHEN COUPLED WITH CUTS TO THE FISCAL YEAR 1990 BUDGET THAT MAY BE DIFFICULT TO ACHIEVE.

FY 1990 BUDGET BALANCING

IN ALL, 55 DISTRICT AGENCIES WERE AFFECTED BY THE ALLOCATION OF THE INITIALLY APPROVED FISCAL YEAR 1990 RESCISSIONS AND THE ADDITIONAL CUTS

IN PROGRAMS AND SERVICES PROPOSED IN THE SUPPLEMENTAL. SOME OF THE MORE SIGNIFICANT REDUCTIONS WERE AS FOLLOWS:

- $6 MILLION IN REDUCED SUPPORT FOR HOMELESS SHELTERS, BASED ON CHANGES IN THE CITY'S INITIATIVE 17 REQUIREMENTS;

- $6.6 MILLION FROM PUBLIC EDUCATION, INCLUDING A NET $5.2 MILLION FROM THE BOARD OF EDUCATION'S BUDGET TO ADJUST FOR A DECLINE IN STUDENT POPULATION, $.7 MILLION FROM UDC, AND $.6 MILLION IN ARTS GRANTS REDUCTIONS;

- $10.5 MILLION CUT PRIMARILY FROM EMPLOYMENT SERVICES, BUSINESS DEVELOPMENT INITIATIVES, COMMUNITY PLANNING, PUBLIC HOUSING ASSISTANCE, HOME PURCHASE ASSISTANCE, AND CONSUMER AND REGULATORY ACTIVITIES;

- $2.8 MILLION TRIMMED FROM DEPARTMENT OF RECREATION'S OPERATING AND PAY-AS-YOU-GO CAPITAL EXPENDITURES;

- $8.7 MILLION IN NET REDUCTIONS IN DEPARTMENT OF PUBLIC WORKS' PERSONAL AND NONPERSONAL SERVICES SPENDING AND DEFERRAL OF PAY-AS-YOU-GO MAJOR EQUIPMENT REPLACEMENT PURCHASES; AND

- $12.3 MILLION IN SAVINGS RESULTING FROM REDUCED BOND INTEREST REQUIREMENTS, AND $19.6 MILLION FROM THE GENERAL FUND DEFICIT REDUCTION LINE ITEM WHICH MUST BE SACRIFICED TO AVOID EVEN MORE EXTENSIVE PROGRAM REDUCTIONS THAN I AM OUTLINING HERE; AND

AS PAINFUL AS THE PROPOSED BUDGET REDUCTIONS WILL BE, WITHOUT THE ADDITIONAL REVENUES I HAD PROPOSED, THEY WILL BE NECESSARY TO BALANCE THE BUDGET. THE REDUCTIONS FREE-UP RESOURCES TO FUND UNAVOIDABLE PUBLIC SAFETY AND HUMAN SUPPORT SERVICES INCREASES.

FISCAL YEAR 1991 GENERAL FUND OPERATING BUDGET REQUEST

FOR MOST AGENCIES OF THE GOVERNMENT, THE FISCAL YEAR 1991 REQUEST CONTINUES THE AUSTERITY MEASURES AND BUDGETARY REALIGNMENTS ENACTED FOR

FISCAL YEARS 1988 AND 1989, AND ALSO THOSE PROPOSED IN THE FISCAL YEAR 1990 SUPPLEMENTAL. MOST FISCAL YEAR 1990 RESCISSIONS, FOR EXAMPLE, ARE CARRIED FORWARD AS BASE REDUCTIONS IN THE FISCAL YEAR 1991 REQUEST. FOR FISCAL YEAR 1991, THE DISTRICT IS REQUESTING A GENERAL FUND OPERATING APPROPRIATION OF $3,241,091,000. THIS REQUEST REPRESENTS A NET INCREASE OF $133,258,000, OR JUST 4.3 PERCENT, OVER THE ORIGINALLY APPROVED FISCAL YEAR 1990 BUDGET OF $3,107,833,000. TO ACHIEVE THIS LOW NET INCREASE, THE REQUEST REDUCES THE BASE BUDGET BY $83.1 MILLION AND 367 POSITIONS.

THE PROPOSED FISCAL 1991 EXPENDITURES ARE FULLY BALANCED AS REQUIRED BY LAW. THE BUDGET WILL BE SUPPORTED BY $2,779,383,000 IN LOCALLY GENERATED REVENUE AND $461,708,000 IN REVENUE FROM FEDERAL SOURCES.

FEDERAL SUPPORT

FEDERAL REVENUE SUPPORTING THE FISCAL YEAR 1991 GENERAL FUND BUDGET INCLUDES THE AUTHORIZED FEDERAL PAYMENT OF $425,000,000, THE LAST OF SIX ANNUAL AUTHORIZED FEDERAL CONTRIBUTIONS FOR ST. ELIZABETHS HOSPITAL OF $10,000,000, AND $26,708,000 REQUESTED BY THE PRESIDENT TO FUND THE RECURRING COSTS OF THE DRUG EMERGENCY INITIATIVE APPROPRIATED BY CONGRESS IN THE FISCAL YEAR 1990 BUDGET.

AS A WHOLE, THE FEDERAL PAYMENT SUPPORTS ABOUT 13 PERCENT OF THE FISCAL YEAR 1991 BUDGET REQUEST, WHILE LOCAL REVENUE FINANCES ALMOST 87 PERCENT. IF THE DISTRICT RECEIVES THE $5.5 MILLION FEDERAL PAYMENT INCREASE RECOMMENDED BY THE PRESIDENT, THE ADDITIONAL RESOURCES WILL BE DEDICATED TO STRENGTHENING MENTAL HEALTH CARE SERVICES.

WHILE THE DISTRICT WOULD WELCOME THE ADDITIONAL $5.5 MILLION FOR FISCAL YEAR 1991, WE ARE DISMAYED THAT THE INCREASE HAS REMAINED AT THE SAME LEVEL FOR THE LAST SEVERAL YEARS. AND WE CONTINUE TO HOPE THAT A MORE PREDICTABLE, FORMULA-BASED FEDERAL PAYMENT, SUCH AS ONE THAT WOULD REFLECT A FIXED PERCENTAGE OF TOTAL REVENUE, CAN BE ESTABLISHED.

BUDGET-BALANCING REVENUE ENHANCEMENTS

NATURAL REVENUE GROWTH IS NOT AS GREAT AS IN PRIOR YEARS AND IT IS NECESSARY TO SUPPLEMENT THE CURRENTLY AUTHORIZED LOCAL REVENUE OF

$2,707,745,000 WITH $71,638,000 IN PROPOSED NEW REVENUE MEASURES. THE NEW MEASURES INCLUDE: $38.7 MILLION FOR A NEW PROPERTY TAX CLASS AND A HIGHER RATE FOR VACANT PROPERTY, $16.1 MILLION FROM AN ENHANCED TAX COMPLIANCE EFFORT IN THE DEPARTMENT OF FINANCE AND REVENUE, AND $16.8 MILLION IN MAINLY NONTAX MEASURES TO GENERATE THE REMAINDER.

FY 1991 REDUCTIONS REQUIRED

BECAUSE OF OUR REVENUE SITUATION, WE HAVE HAD TO MAKE SUBSTANTIAL CUTS IN MANY AREAS OF THE BUDGET TO RELEASE THE RESOURCES NECESSARY TO FUND THE ABOVE MENTIONED PRIORITY PROGRAMS. COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES, PUBLIC WORKS, AND GOVERNMENTAL DIRECTION AND SUPPORT FUNCTIONS WERE PARTICULARLY HARD HIT.

IN MOST CASES, EVEN THOSE AGENCIES RECEIVING NET INCREASES ARE ALSO BEING REQUIRED TO REDUCE LOWER-PRIORITY EFFORTS AND REDIRECT RESOURCES. MOREOVER, THE PROPOSED BUDGET REQUIRES $20 MILLION IN UNALLOCATED, ACROSS-THE-BOARD RESCISSIONS, INCLUDING A $10.0 MILLION PERSONAL SERVICES ADJUSTMENT AND AN ADDITIONAL $10.0 MILLION REDUCTION FROM SUPPLIES, ENERGY, AND EQUIPMENT. OTHER MAJOR REDUCTIONS INCLUDE $12.6 MILLION CUT FROM THE EMERGENCY SHELTER PROGRAM, A $5.6 MILLION REDUCED REQUIREMENT FOR THE TEACHER'S RETIREMENT FUND, AND $2.4 MILLION TRIMMED FROM THE DEPARTMENT OF ADMINISTRATIVE SERVICES BUDGET.

PUBLIC SAFETY, HUMAN SERVICES, AND EDUCATION COST INCREASES

OF THE TOTAL $133.3 MILLION IN NET INCREASES PROPOSED IN THE FISCAL YEAR 1991 REQUEST, $124.8 MILLION, OR ALMOST 94 PERCENT, ARE DEVOTED TO MEETING THE PUBLIC SAFETY, HUMAN SERVICE, AND EDUCATION RESPONSIBILITIES OF THIS GOVERNMENT. MOST GOVERNMENT AGENCIES WERE ALLOWED INCREASES ONLY TO ANNUALIZE THE FISCAL YEAR 1990 PAY RAISE AND WITHIN-GRADE PAY OBLIGATIONS.

IN THE AREA OF PUBLIC SAFETY, MAJOR INCREASES ARE REQUESTED TO:

- ENHANCE LAW ENFORCEMENT ACTIVITIES;

- PROVIDE FOR AN EXPECTED 9 PERCENT CORRECTIONAL SYSTEM POPULATION INCREASE;
- STRENGTHEN FIREFIGHTER TRAINING AND ENHANCE AMBULANCE OPERATIONS;
- FUND THE POLICE AND FIRE RETIREMENT CONTRIBUTION; AND
- MEET A VARIETY OF OTHER CRIMINAL JUSTICE SYSTEM NEEDS.

IN THE AREA OF HUMAN SUPPORT SERVICES, MAJOR INCREASES ARE REQUESTED TO

- FUND NEW WELFARE REFORM ACT REQUIREMENTS, INCLUDING ADDITIONAL DAY CARE SLOTS

AND SUSTAIN SELF-SUFFICIENCY BUILDING PROGRAMS;

- MAINTAIN CERTIFICATION LEVELS AT FOREST HAVEN;
- PROTECT THE PUBLIC HEALTH BY EXPANDING AIDS EDUCATION PROGRAMS, MEET THE WORKLOAD REQUIREMENTS OF THE CHIEF MEDICAL EXAMINER'S OFFICE, AND SUPPORT A WIDE RANGE OF MENTAL AND PHYSICAL HEALTH-CARE NEEDS;
- OFFER ADDITIONAL DRUG TREATMENT AND DRUG EDUCATION PROGRAMS; AND
- PROVIDE FINANCIAL RELIEF TO D.C. GENERAL HOSPITAL, WHICH HAS BEEN FISCALLY STRAPPED BY AN INFLUX OF TRAUMA CASES.

THE REQUESTED INCREASES IN THE EDUCATION AREA WILL ENABLE THE PUBLIC SCHOOL SYSTEM TO IMPLEMENT NEW EDUCATIONAL PROGRAMS AND PROVIDE FOR IMMEDIATE AND SUBSTANTIAL FACILITY IMPROVEMENTS WITH PAY-AS-YOU-GO CAPITAL FUNDING. ADDITIONAL FUNDING WILL ALSO ENABLE THE PUBLIC LIBRARY TO IMPROVE SERVICES AND TO RESTORE THE BOOK FUND TO THE FISCAL YEAR 1989 PURCHASING LEVEL.

FY 1991 FUNDING SUMMARY

BY MAJOR FUNDING AREA, THE PROPOSED FISCAL YEAR 1991 BUDGET WILL PROVIDE:

- $919.2 MILLION FOR PUBLIC SAFETY, AN INCREASE OF $57.8 MILLION FOR THE LARGEST SINGLE AREA OF THE BUDGET, INCLUDING FUNDING FOR FIRE AND POLICE PROTECTION, AMBULANCE SERVICE, AND SUPPORT FOR OUR OVERBURDENED CRIMINAL JUSTICE SYSTEM;

- $862.9 MILLION FOR HUMAN SUPPORT SERVICES, AN INCREASE OF $35.0 MILLION, FOR A BROAD RANGE OF SERVICES, INCLUDING PROGRAMS FOR THE ELDERLY, DAY CARE, YOUTH SERVICES, DRUG TREATMENT CLINICS, COMPREHENSIVE MENTAL HEALTH CARE, FAMILY EMERGENCY ASSISTANCE, AND ADDITIONAL SUPPORT FOR D.C. GENERAL HOSPITAL, WHICH IS STRUGGLING WITH THE IMPACT OF A GREATLY INCREASED TRAUMA CASELOAD;

- $723.2 MILLION FOR PUBLIC EDUCATION, AN INCREASE OF $32.0 MILLION, TO BOOST OUR PUBLIC SCHOOL SYSTEM, SUPPORT OUR UNIVERSITY, KEEP THE NEIGHBORHOOD LIBRARIES OPEN AND STOCKED WITH BOOKS, AND TO PROVIDE OTHER EDUCATION-RELATED ACTIVITIES;

- $135.5 MILLION FOR BUSINESS AND COMMUNITY DEVELOPMENT, A DECREASE OF $2.4 MILLION, IN FINANCIAL SUPPORT FOR HOME BUYERS, PUBLIC HOUSING IMPROVEMENTS, TENANT ASSISTANCE PAYMENTS, AND JOB TRAINING OPPORTUNITIES;

- $229.5 MILLION FOR PUBLIC WORKS, A SMALL INCREASE OF $5.6 MILLION, FOR A VARIETY OF EFFORTS, INCLUDING STREET AND SIDEWALK MAINTENANCE, SANITATION SERVICES, METROBUS AND METRORAIL OPERATING SUPPORT, SNOW REMOVAL, AND OPEN SPACE MAINTENANCE;

- $111.9 MILLION FOR CENTRAL ADMINISTRATIVE FUNCTIONS OF GOVERNMENT, A DECREASE OF $.9 MILLION; AND

- $259.0 MILLION FOR FINANCING AND OTHER USES, AN INCREASE OF $6.2 MILLION, FOR LOANS AND INTEREST PAYMENTS AND OTHER REQUIREMENTS.

FISCAL YEAR 1991 ENTERPRISE FUND BUDGETS

THE FISCAL YEAR 1991 WATER AND SEWER ENTERPRISE BUDGET IS $226,209,000, A NET INCREASE OF $26,827,000 COMPARED TO THE FISCAL YEAR 1990 APPROVED

BUDGET OF $199,382,000. THE NET CHANGE PRIMARILY REFLECTS INCREASED OPERATING AND MAINTENANCE COSTS, AS WELL AS PAY-AS-YOU-GO CAPITAL IMPROVEMENT EXPENDITURES, REQUIRED TO PROVIDE SAFE DRINKING WATER AND COLLECT, TREAT, AND DISPOSE OF WASTE WATER FOR THE DISTRICT AND A LARGE PORTION OF NEIGHBORING JURISDICTIONS.

THE LOTTERY AND CHARITABLE GAMES ENTERPRISE BUDGET IS $8,600,000, NO CHANGE FROM THE FISCAL YEAR 1990 APPROVED BUDGET, AND THE CABLE TELEVISION ENTERPRISE BUDGET IS $1,700,000, AN INCREASE OF $100,000 OVER THE APPROVED FISCAL YEAR 1990 BUDGET OF $1,600,000. THE INCREASE IN THE CABLE TELEVISION ENTERPRISE BUDGET WILL PRIMARILY FUND NEW EQUIPMENT AND SPACE RENTAL COSTS.

FY 1991 CAPITAL BUDGET AUTHORITY REQUEST

THE FISCAL YEAR 1991 CAPITAL BUDGET REQUEST IS $341,052,000 IN NEW AUTHORITY. THIS AMOUNT INCLUDES $312,322,000 IN GENERAL FUND PROJECTS AND $28,730,000 IN WATER AND SEWER ENTERPRISE FUND PROJECTS.

THE GENERAL FUND BUDGET AUTHORITY INCLUDES $27,500,000 FOR A VARIETY OF PUBLIC SCHOOL SYSTEM IMPROVEMENTS, $17,495,000 TO ALLOW THE UNIVERSITY OF THE DISTRICT OF COLUMBIA TO COMPLETE A MAJOR PORTION OF ITS FACILITIES DEVELOPMENT PLAN; $17,200,000 FOR PUBLIC HOUSING IMPROVEMENTS; AND $33,125,000 FOR A VARIETY OF DEPARTMENT OF HUMAN SERVICES' IMPROVEMENT AND RENOVATION PROJECTS INCLUDING RENOVATIONS AT FOREST HAVEN. ANOTHER $129,039,000 IS REQUESTED FOR THE DEPARTMENT OF PUBLIC WORKS FOR THE REHABILITATION AND IMPROVEMENTS OF ROADS, STREETS AND BRIDGES; THE RENOVATION AND GENERAL IMPROVEMENTS OF GOVERNMENT FACILITIES; AND THE UPGRADING OF ENVIRONMENTAL SUPPORT FACILITIES. THE DEPARTMENT OF PUBLIC WORKS' WATER AND SEWER UTILITY ADMINISTRATION CAPITAL REQUEST OF $28,150,000 WILL PROVIDE AUTHORITY FOR REPLACING AND EXTENDING SANITARY SEWERS AND WATER MAINS. AUTHORITY OF $580,000 IS ALSO REQUESTED FOR GENERAL IMPROVEMENTS AT THE WASHINGTON AQUEDUCT.

THAT CONCLUDES MY PREPARED REMARKS. I THANK THE COMMITTEE MEMBERS FOR THEIR KIND ATTENTION, AND I LOOK FORWARD TO THE COMMITTEE'S SUPPORT FOR THESE BUDGET REQUESTS. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

INTRODUCTION OF ASSOCIATES

Mayor **Barry**. And my testimony, Mr. Chairman, will be rather lengthy because there is a lot to cover here and I hope that you would indulge us in this.

With me is Carol Thompson, our city administrator and deputy mayor for operations. She did an admirable job of managing this large, complex government while I was away. Wilhelmina Marshall, the deputy director for legislative affairs in our budget office who has liaison responsibility with your committee and other committees on the Hill; Bob Pohlman, our deputy mayor for finance; Chief Fulwood, the chief of police; and Richard Siegel, our budget director. Other staff people are here, who may be needed at the appropriate time.

OPENING STATEMENT OF MAYOR BARRY

Mr. Chairman, I am going to read some statements that really do not need to be read to you, but to the larger public. That is, the D.C. government is the most complex governmental entity in America. We are not comparable to cities or counties in your home States, or for that matter, to your own State government. We perform a multiplicity of State and local functions.

Unlike any other cities or counties, for example, we have to manage a State vehicle licensing program; run a State highway department; deliver State Medicare and AFDC services; maintain a State mental hospital; run a State level judiciary; operate State prison facilities at Lorton and other places. Unlike other States, however, we must hire teachers, firefighters, and police officers on the beat, provide trash and sanitary services, and a variety of other typically county and municipal level concerns.

I know that there is a misperception that the D.C. government has too many employees. We will deal with that a little bit later. But the fact is that we have to have the personnel to meet all of our responsibilities.

Moreover, I think you will find that our employees in terms of professionalism, education, experience, dedication, commitment, et cetera, are equal to those or better than anywhere else found in the United States of America.

Mr. Chairman, I wish that some of our critics could spend a few days visiting some of our programs and the people who run them. We operate over 3,000 programs just as efficient or more efficient than other jurisdictions.

I think our parking enforcement efforts is an example of how efficient we can be. Some people say too efficient, but we are doing it there.

Now, of course, you are going to find instances when human error and human mistakes are made and that things do not always get done the way I would like to or you would like, but that is the way government operates. But I think when you compare us to any other city, county, or State government, we are as efficient and in a lot of instances more efficient than others.

One has to look at our senior citizens programs, our year-round summer jobs program, our water billing system, our restaurant inspections, our recreation department, our outreach program for troubled youth, our well run elections, the comprehensive planning and zoning process, our speedy income tax returns. Since we are talking about income tax returns, ours are much faster than the Federal Government, by about 4 weeks. The comprehensive planning and zoning process, the award winning Blue Plains treatment facility, our first class fire department, our trash pickup, even though we have some super cans that might have been beat up, we are in the process of replacing those, are better than most in the country, as well as the overwhelming majority of the rest of programs we run.

Mr. Chairman, I think the problem is not that we do too little, but the problem is that we do too much. We do more in the District because there is more to do. With 20 percent of the region's population, the District provides 77 percent of the region's homeless beds, 61 percent of the region's AFDC population. We treat 68 percent of those in the region who receive drug treatment. We have 74 percent of the region's public housing units.

Let us take public housing; instead of having 74 percent of the region's public housing units, suppose we had just 20 percent, our fair share. Think how efficient and innovative we could be. The same is true of the homeless. We do more in Washington for the homeless than anywhere else in the country. We spend more. Our programs are much more comprehensive. They are better managed than any other place. So I hope there is some appreciation for our situation.

We have no State government to turn to. Maryland, for instance, collects taxes from the wealthy then redirects some of that money to the hard depressed urban areas of Baltimore and other parts of that State.

We are land locked within 68 square miles, which includes 58 miles of land and 10 miles of water. Fifty-five percent of the land is controlled and owned by the Federal Government. We cannot annex property. We cannot tax incomes of non-District residents who work in the city. But despite all of the obstacles, we continue to perform much better than we are usually given credit for.

We often hear of a fiscal crisis or a fiscal mess of the District, but keep in mind, as you said earlier, Mr. Chairman, we have balanced our budgets 8 of the last 9 fiscal years. Under the circumstances, that is an extraordinary achievement.

CONFLICTING FORCES AFFECTING THE BUDGET

Mr. Chairman, our fiscal 1989 request just like our revised fiscal year 1990 budget supplemental, juggles conflicting programmatic and fiscal forces in trying to make ends meet. Our budget balancing process has become complicated like our household budget. We are finding escalating program costs, particularly for public safety, health and human services, and education.

The country is experiencing an economic downturn and economic slowdown. You find that most of the States and cities in the eastern part of the United States and the Midwest are experiencing anywhere between a 3- and 8-percent reduction in revenues. Those revenue reductions are not a result of any mismanagement, but a result of a slowdown in the economy, particularly in the area of income taxes, sales taxes, and corporate franchise taxes.

I was reading just last week that the State of New York has had its bond rating down graded to the lowest in its history. Massachusetts and other States are facing multibillion dollar deficits. Mayors in the cities of Philadelphia and Houston are having to lay off people because of the economic downturn in the economy. So we are experiencing our 3 to 4 percent reductions in revenue projections for 1990 and 1991 primarily in the area of income taxes, sales taxes, and corporate franchise taxes.

POLITICS AFFECTING THE BUDGET

Also, we have a political situation, which I don't particularly like, but we have to live with it and that is every year I have sent a balanced budget to the council. In an election year, this year, I have not been afraid to ask for tax increases. Most politicians would not do that, but I did it because I felt we had to be fiscally responsive and responsible and suffer the political consequences of our actions.

There has been a great deal of reluctance, not just reluctance, but outright rejection on the part of the council to these revenue increases. We find ourselves struggling and straining everyday to meet our present 1990 budget as well as 1991 budgets. Our 1991 budget does not have any moneys in it for proposed pay increases for our hard working D.C. government employees. We are a highly unionized government, which I certainly support. It is unlikely we are going to be able to get away with zero increases for 1991.

So, Mr. Chairman, as you look at these extremely tight budgets you will find that the executive branch of Government bit the bullet in 1990, reducing the budget by $150 million to $175 million of excruciating cuts in services, painful, sometimes politically devastating, but we have done that. We will try to put that in the context of 1990 and 1991.

FEELING THE PAIN OF BUDGET CUTS

Mr. Chairman, when you reduce budgets and if you do not feel any impact of the reductions, that means something was wrong with those budgets in the first place. That means those budgets were, in fact, bloated.

So we are now beginning to feel the pain and the suffering of those budget reductions. That means that hiring restrictions and expenditure controls will have to be tightened further. That means that public services are likely to be affected as we continue to concentrate limited resources on our highest priority needs. Nevertheless, my administration will strive to make every dollar count.

PUBLIC SAFETY FUNDING PRIORITIES

Mr. Chairman, to relieve some anxiety of the police situation, I want to skip over to page 19 of my statement and pick up where I left off. There is some question of public safety funding priorities of the Barry administration. There has been some criticism lately, and some of it is political, that this Government has not placed sufficient priority on meeting public safety needs.

The facts of the matter do not support any such contention or any such conclusion. By far, the fastest growing area of the budget has been the public safety and justice appropriation title.

With our fiscal year 1991 request, the overall budget will have grown by about 56 percent since fiscal year 1985. However, public safety funding has grown by 72 percent in the same time period.

Leading the pack is the Department of Corrections with an 85-percent increase, from $136.6 million in 1985 to $252.7 million in 1991. The Metropolitan Police Department, which is one of the finest departments in the world, has had a 70-percent increase in budget authority and spending from $151.7 million in fiscal year 1985 to $257.2 million in fiscal year 1991.

The budget of many large cities and counties is not this large. The budget of Atlantic City does not even come to $151 million. So $252.7 million is being proposed for the police department for 1991 and $252.7 million is a lot of money where I come from.

In the fire and ambulance service there was a 64-percent increase from $62.3 million in fiscal year 1985 to $101.9 million in fiscal year 1991. Our court system, parole and pretrial services functions have also increased greatly.

Before proceeding further, I want to thank you, Mr. Chairman and Senator Gramm and the rest of the members of the committee for your efforts in 1990 and 1991 in approving the special funding for the city's crime fighting effort. I have personally talked to you and Senator Gramm about our appreciation for what you have done.

We realize it is just a beginning and when Chief Fulwood comes forward he will tell you that that money has begun to make a visible difference, a great difference.

POLICE RECRUITMENT EFFORTS

Therefore, it is appropriate and timely that I review with you the status of our police recruitment drive and report on a much related subject, police overtime expenditures.

I will begin with our recruitment efforts. Mr. Chairman, local jurisdictions all over the country are increasing their police forces and public safety forces whether it is correctional officers, police officers, firefighters, or ambulance personnel.

I am pleased to report that our report card is a triple A. Our progress is good. We have not lowered our standards one iota to get new police officers. The total hired for the year to date is 657 police officers. We have hired, from September 30 or October 1 to now, 657 police officers. Our training academy is working 16 hour shifts a day. We are bulging at the seams out at Blue Plains with new recruits. We have built the department's uniform strength up to 4,402. We have hired 657 officers and we are now at a strength of 4,402.

As of May of this year, we achieved the congressional hiring mandate of 4,355 uniformed officers, which allowed us to access the $17.6 million in special Federal initiative funding to continue to expand our recruitment efforts.

For the remainder of this year, we have set a goal of an average of 170 new recruits per month, accounting for attrition, to reach the congressional mandate of 5,055. I am optimistic that we can achieve this rate.

As we work to reach the 5,055 member rank, we are taking steps to manage the large influx of officers and the constant shock to related personnel and procurement operations. In particular, the Department of Administrative Services is cooperating with the police department to streamline procedures for purchasing equipment, automobiles, and technology.

NO SHORTAGE OF POLICE EQUIPMENT

Mr. Chairman, Chief Fulwood is here to verify this. I want to emphasize in very strong language that the recent news media accounts of shortages of typewriters, portable radios, computers, and vehicles have been grossly exaggerated. It is, in fact, not accurate. In fact, when you look at our equipment, our cars, our computers, and all of the other related equipment needed to service our police officers, you will find that we are in much better shape than most law enforcement agencies in this country.

Because of substantially increased equipment purchases in recent years, none of these items is in short supply.

Mr. Chairman, to gear up to supply 657 additional officers is no easy task. Moreover, we have serious disagreements with the council on our procurement act, which hampers us in our ability to move rapidly on procurement. We are going to send to the council amendments to the procurement act. We are going to ask them to change the procurement act to allow us to move faster.

But my point is, we do not have a shortage of radios. I think what we have is a disagreement with the police union in that they want every police officer to have a $2,000 radio to take home or to keep with them. Those officers on the streets have an adequate number of radios and vehicles.

Senator ADAMS. Mr. Mayor, we are going to continue and finish your entire statement and you are right at a key point here, which I want you to kind of have a chance to talk with your folks about because Senator Gramm made a request to me, which I want to honor, that he might have an opportunity to make an opening statement at this point. The vote has started.

If you want to make your opening statement, Senator Gramm, we will wait here, then we will go over and vote and return right to this subject so that we will not break it.

I apologize for that, but I do not set the schedule at this place anymore than——

Mayor BARRY. We understand, Senator.

Senator ADAMS. All right.

Senator Gramm.

OPENING REMARKS OF SENATOR GRAMM

Senator GRAMM. Mr. Chairman, let me thank you. I am upstairs in three other markups, but I think it is very important when we are talking about the Federal city—the focal point of much that the American people identify with in the country—that we take seriously what we are trying to do here.

I just want to focus my opening statement on an abiding concern that I have about the budget. A budget is a document where you set out the priorities of a city, or a county, or a State, or a nation.

I hear you, Mr. Mayor, when you talk about the expenditures of the last 5 years on law enforcement, but all I can do in looking at this year's budget is compare what we are doing now relative to the problem we face and then look at what we are proposing to do next year.

As I look at your numbers, it is hard for me to believe that your budget priorities in this budget as compared to last year represent the priorities of the people that I know who live in the Federal city. It certainly does not represent the priorities of a lot of people who work here.

Your overall budget, as I figure the numbers, grows by 9.7 percent. That is almost twice as fast as the Federal budget grows. Yet, the growth in expenditures on the police department is only 2.9 percent. So in other words, your overall budget is growing three times as fast as expenditures for the police department.

Now when you take in all of D.C. public safety and justice, including the police department, that figure rises to 6.7 percent, but it is still substantially below the growth of overall city spending.

Now, Mr. Mayor, as I have said to you on many occasions, I am not interested in trying to play Mayor of the District of Columbia, but something is wrong when we are getting citizen notification from the police department that people need to stay out of Georgetown late at night because we do not have the police officers to provide for public safety; and then 2 or 3 days later after that we get a budget submission where the overall budget is growing more than three times faster than our expenditures for police officers.

As I have noted in the past, the District of Columbia, if you take out the Federal jurisdictions and the Federal lands, currently has about 1,000 city employees per square mile of non-Federal land in the District of Columbia. It is just very hard for me to accept the fact that we cannot enforce the law in Georgetown when we are hiring 1,000 people per square mile.

So I just want to say that I want to work with you. I want to try to help you deal with this problem, but there is no possibility that I am going to support a D.C. appropriation bill that increases expenditures for the police department only at one-third of the rate of expenditures of the overall Government.

The Constitution is very clear in article I, section 8 in saying that the Congress shall have exclusive legislative jurisdiction over the Federal city. I hope we can work out, as we move toward our appropriation, some reordering of priorities, but I want to make it clear that if we do not do that; then I am going to feel constrained to try to move in Congress to reallocate funds to provide the law enforcement we need. Dallas and Houston in my State spend far more on a per capita basis than the District of Columbia does on police department—excuse me—as a percentage of its overall budget.

I believe in the Federal city, where tourism is a major industry for you, a major source of your income and revenue, that it would behoove you to guarantee people safety. Quite frankly, I do not think it is good publicity for the country to have it so that people are deeply concerned about their safety when they come to the Nation's Capital.

So I hope we can work together. I hope we can reorder priorities. But I want to say that for the first time since I have been on this committee; and I think, Mr. Mayor, you will agree that I have tried to work with you, and as I told you the first time we ever met, that I did not run for Mayor of the District of Columbia, it is too tough a job for me; but I believe that Congress has got to intervene in this area to simply say that in terms of the Federal money that we are providing, and we are going to be providing over $500 million, that we want more of our money to go into law enforcement.

Last year we provided funding for 700 new police officers, and I think this year with the budget we are in we are not going to get additional money. So it means we are going to have to reallocate money.

My own feeling is, we have got to spend more on the police department and on public safety until the day comes when people are safe, when the murders stop, and when the bleeding Federal Capital is no longer bleeding.

So I just wanted to go on record as to how strongly I feel about this, and I hope that we can work together to try to reorder priorities. I do not think it is good policy to be rewriting the budget of the District of Columbia on the floor of the U.S. Senate, but that is exactly what I intend to do if we cannot get better police protection and a better protection of the public safety in the District of Columbia.

Senator Adams. The subcommittee will stand in recess for 15 minutes and then we will proceed ahead with the hearing.

[A brief recess was taken.]

Senator Adams. The subcommittee will come to order.

We will resume with the testimony of the Mayor and when we have finished with the Mayor, we will proceed with the testimony of Mr. Clarke.

The subcommittee will be in order.

Mr. Mayor, if you wish to continue on, we would be pleased to hear your testimony.

PERCENTAGE GROWTH OF PUBLIC SAFETY TO THE OVERALL GROWTH OF BUDGET

Mayor Barry. Mr. Chairman, I wish Senator Gramm was here to hear this, but we will put it on the record and I will discuss it with him a little bit later.

While I understand his concern about the overall budget growth, and while I understand his concern about public safety, there is nobody in this country that is more concerned about public safety than I am. I live here in Washington and I am proud of Washington. The police chief will indicate later how we rank nationally in public safety and how a number of cities around the Nation, including some in Texas, have much higher crime rates.

The issue is one of what the base is that we are comparing. I would like to point out for the record that the D.C. government's overall budget's increase from 1990 to 1991 is 4.3 percent and the police increase from 1990 to 1991 is 2.9 percent.

Mr. Chairman, the critical number though is what happened between 1989 and 1990. When you look at budgets you cannot look at just one year. The overall increase for the D.C. government's general fund was 9.7 percent including the Federal funds, that you provided. The police increase was 20.7 percent. Now that is a staggering number, 20.7 percent, particularly when there are some cities that are experiencing decreases in public safety. If you look at them both, between 1989 and 1991, the overall growth of the D.C. government's general fund was 14.4 percent. The police growth was 24.2 percent. I just wanted to enter that into the record.

WASHINGTON, DC, A SAFE CITY

We also want to say that in Washington it is as safe as most cities. That does not negate the perception about the District. I think when you look at the statements made by Chief Fulwood and Lieutenant Smith, at no time did they say that people should not go to Georgetown. The chief can speak for himself, but I have talked with both of them about it. It was Gary Hankins, the chief of the police union, FOP, who said that, but, again, Chief Fulwood can address that when he answers the questions that you may have about that.

When you look at our downtown area and look at other areas of our city where we live, with the exception of some pockets of our city, we do not have an unsafe situation. You have crime going on, of course, but the highest crime rate we had in Washington was in the early 1960's. I think we had about 80,000 per 1 offense in about 1962 or 1963. Last year we had 53,000.

I know that there is a perception about the District, Senator. If one perceives that to be true in their minds, it is true, but factually we are No. 1 in only one category, which I do not like, and that is murder. Even in this category the rate of increase has slowed compared to the rate of increase last year. If we had had the same rate of increase this year as we had last year, we would have over 275 murders now. We have 177 but 1 is too much for me, Senator. One murder is too much for me.

I welcome your looking into the gun trafficking in Washington. Most of these murders are handgun related and most of them are drug related. So we need to figure out where these guns are coming from too and who is bringing them in. We do not manufacture Uzis, AK-47's or 9 millimeters in the District. I just wanted to state that and urge you to at least look at the facts. And not to get your information, as you said earlier, from the public media.

PLACING A PRIORITY ON PUBLIC SAFETY

Senator **Adams**. Mr. Mayor, the problem, and you have seen it stated by Senator Gramm, I hear it stated by many other Senators to me directly, is that we have in the United States a terrifying drug problem which is leading, because of the types of new drugs, to an increased murder rate, where this became a primary problem for the District of Columbia. As you remember, we had the President of the United States calling this the "Murder Capital of the Country", and so on.

Therefore, the budget priorities that the committee established on top of the regular budgeting were to provide resources for the whole system, not just the police department, but for the prosecutors' office, the judges, the jail area, the treatment facilities and this then becomes a focus of why do we then hear a report on top of that that there is not enough overtime or not enough funding and it goes to one of the principles of budgeting, which was special additional funds were added in. Not all of those funds were used.

I do not know who in the District government was to send the reprogramming request, but even without it we went into the supplemental, Senator Gramm and I, and put $3 million more in overtime for police and we were told that that is not enough.

What we are dealing with here is a highly visible problem of great intensity and it does not mean that we are not interested in the other segments of the budget, the treatment program and so on, but until we can solve that problem, we have real trouble.

When it is exacerbated by people saying that we are not supplying enough resources for cars or for overtime or for people on the streets, it is a problem of the Government, not a problem that the Congress itself is creating.

This is very, very much on the mind of those in the U.S. Senate at this very moment. We are presently on the floor of the Senate voting whether or not we can pass to ban assault rifles, which are killing people on the streets here more than any other item. We are in the middle of a whole crime bill.

So this is not something that has been dreamed up just to make this a difficult day for the District of Columbia in the presentation of its budget. It is part of the Federal Government meeting its national responsibilities throughout the whole country.

I complain about what is happening in the Seattle and in the Yakoma areas, but I have a particular responsibility here in the connection with the District of Columbia to be certain that the resources are here. If Mr. Bennett is not doing his part, I complain to Mr. Bennett. If the City Council or the Mayor is not, I complain here. If I am not doing my job of supplying information to other Members of the Senate so that they will vote you money for handling this problem, then that is my problem.

But I was completely caught off base in this matter where we had appropriated all of this money and then we hear there are not enough moneys available to have overtime policemen, which are simply a substitute for the policemen that are being hired. I understand the fact you can only put so many people through a recruiting process at one time. So you substitute with overtime until you get to that point.

That is the problem that we just want to be certain we solve as we go on to the other things. The announcement or whatever happened—the announcements do not bother me about Georgetown. What happened in Georgetown bothers me greatly. But Georgetown is at this point a secondary problem to what is happening on the streets where the murders are occurring. We still have a rate that is not significantly dropping. With the types of weapons that are on those streets, we are killing innocent people and every night

I have to watch that television where somebody is being carried out of a house.

Now I know this does not solve itself overnight, but that is the reason for the inquiry and that puts a cloud on the whole process of moving the D.C. appropriation bill through the full committee and through the Senate floor.

You heard, and I am not going to repeat it to you what Senator Gramm said about rewriting the—the one thing I do not want to do is rewrite a D.C. appropriation bill or its council's bill on the floor of the Senate or the House. I do not believe in that. I do not think it would be well done. Yet, that is the threat. That is the problem we are dealing with.

Now, please—I understand and I have tried to explain to Senator Gramm that if you get a percentage on a percentage, it is just like the way that you tax my house. If you put a big percentage on one year and a big percentage the next year, and the big percentage the next year, my total amount is higher than if you have had a small percentage and then a bigger percentage. So I think I can get through that, but I want to know about this reprogramming.

FACTS ABOUT THE POLICE OVERTIME

Mayor **Barry**. Mr. Chairman, let me speak about the police overtime. I would like to refer to page 22 of my statement so that, Mr. Chairman, you and I understand facts. I would like to speak factually on this issue and we will call Chief Fulwood to come forward if you need him to provide additional information.

But let us speak factually. These are undisputed, unquestionable facts that I am about to put on the record. Let us look at the facts. The Metropolitan Police Department was budgeted at $14 million for overtime in fiscal year 1990. Those are facts. If you look in the budget book you will find that the overtime was budgeted at $14 million.

The Metropolitan Police Department's overtime spending in fiscal year 1990, as of May 22, is $21.7 million; $14 million budgeted, $21.7 million spent. Why did we spend it? Because we wanted to demonstrate our commitment. We knew we were going to access the $17 million. We knew it did not require a reprogramming. Only that, as I understand it, we had to reach a police officer level of 4,355 before we could access the $17 million for the police department.

Mr. Chairman, from October 1, 1989 through May 22, 1990, this department has already spent $21.7 million and where did it go? For public housing patrol overtime, $673,646; for the Georgetown detail, $200,000; homicide details, $567,000; sex offense and robbery details, $32,360; traffic enforcement, $297,000; recruiting branch overtime, $159,000; administrative overtime, $1,512,000; and court overtime, $8,598,000. In 1985, court overtime was $1.9 million. For crime beat overtime the Metropolitan Police Department as of May 22 has already spent $9,757,802.

Mr. Chairman, you cannot dispute those facts that this department has exceeded its budget already and Chief Fulwood had no choice except to try to curtail this rate. If this rate had gone on the way we are now, Mr. Chairman——

Senator **Adams**. Or ask for more money.

Mayor **Barry**. Wait, Mr. Chairman, could I——

Senator **Adams**. Please, go ahead.

Mayor **Barry**. If this rate had gone on, the Department has informed me that we would be spending $36 million in overtime in fiscal year 1990. So if someone said, "Well, ask for more money", our appropriations process is such that we go to the council and ask them for more. The council cut $3,072,000 out of the 1990 supplemental budget of the police department. They did that. Those are facts.

Congress gave us $17.6 million. When you take $14.2 million, and add it to the $17.6 million that would give us enough overtime money to finish the rest of this year.

Now if the council or the Congress are willing to give us new money, and not cut $3 million out of the department's budget, we will take it.

Chief Fulwood will tell you that we have been supportive of this increase in police officers, but when you say ask for more money, we are going to spend the $17.3 million. It has already been programmed. It has already been scheduled to be spent, including the equipment money.

These patrols would have stopped a long time ago. When the department reached $14 million in overtime expenditures, Mr. Chairman, logic would lead you, if you want to balance your budget, to stop then. We did not do that. We said we are not going to stop. We are going to continue to hire officers. We are going to continue to spend $9,757,000 in crime beat overtime on the streets of Washington. I think that is our commitment to that and it is clear.

REQUEST FOR AN INCREASE IN OVERTIME FUNDS

Senator **Adams**. In his supplemental request, did Chief Fulwood ask the city for an increase in overtime when he had run out?

Mayor **Barry**. In letter after letter to the City Council, we can get them for the record, I indicated, that a cut of $3 million out of the police department's budget, out of the personnel service line, would affect our overtime. We knew we were running out of overtime funds when I submitted the budget. We have a good financial management system that can generally predict what this is going to come——

Senator **Adams**. Because the only request that I got in the supplemental was for a restoration of $3 million, which I did. I did not receive a request for reprogramming or for additional moneys for overtime in that supplemental budget that just went through and is being signed today. So we gave all that was requested. That is what I am asking you about. We had in addition, the recruiting money, which was not able to be used because you had to use the city money first, but that money could be reprogrammed because you had not used it yet, or part of it.

That is what I am concerned about, that we have a communication that tells us what we need to have because then I will ask for it and I will state that in the budget that is presently going up there. There is $21 million in there for both recruiting and for overtime.

We understand the fact that if you are fighting a problem like this city is fighting right now you have got to have officers on the street. What we did not understand was that we did not get any more requests. We granted everything that was asked.

Mayor **Barry**. Mr. Chairman, I would like to ask Chief Fulwood to give additional information on this, but let me indicate——

Senator **Adams**. And as you can see, the reason I am asking you this and spending this time on it is not that this is the only subject I am interested in in the District of Columbia, but you can see from Senator Gramm, and he represents a large number of people in the Senate, and until I get that problem solved it is very hard to deal with the rest of the budget. I cannot hurdle over it. So I have got to solve it.

Mayor **Barry**. Mr. Chairman, I understand that. As an elected official who has to deal with these kinds of situations, I understand that. We want to make sure that the committee gets all the facts about the overtime.

ADEQUATE FUNDING FOR THE POLICE DEPARTMENT

Senator **Adams**. I understand that you have over spent in the police department in overtime. That is something explainable. That is something that people would support. That is something that is not anything that any of us feel is anything other than just a fact as it is. What our problem is, is do you have enough money to maintain the patrols and to do the recruiting so you can get to the 5,000, but you can protect the city in the same time and that the chief makes progress on the murder rate. That is what we need to know.

Mayor **Barry**. Mr. Chairman, we have made progress. Let me just say that as we get officers out of the police academy with 24 weeks of training, all seven districts, will have increased police power over what they had last year. Over 70 percent of the total police force are assigned to the seven districts.

I want to assure the Senate and the citizens of our city that we have more police officers on the streets of Washington today, Senator, than ever before and we are reducing crime. We are making progress, but we still have a high murder rate and one is too many for me. We can reduce crime and get people involved, but there is still the perception that we are the murder capital.

I would like to ask Chief Fulwood if he would talk a little bit about this so we can at least try to clear it up. I know you are right that as long as this is an issue you cannot get to the other issues in this budget. I understand that very clearly.

Chief?

Senator **Adams**. Chief, a pleasure to see you.

OPENING REMARKS OF POLICE CHIEF FULWOOD

Mr. **Fulwood**. Thank you.

In looking at our budget for fiscal year 1990, it became clear to me, as we looked at forecasting, where we would be at the end of the year at the present spending rate. We were spending about $1.3 million per pay period for overtime, which clearly indicated to us that we were going to over spend at a rate that would create a $36 million expenditure in the overtime category.

In addition to that, we had the other unanticipated expenses that were coming up that also were going to have an impact on our budget authority. We were facing the visit of Gorbachev, which is coming up on May 30, the visit of F.W. DeClerk and the visit of Mr. Mandela to the city. This was another $500,000 in overtime to be expended with no opportunity for direct reimbursement from the Federal Government.

When you couple that with the growing expenses of rental space, caused by expanding the department by some 25 percent, then we were facing a difficult situation. However, we were still continuing to spend overtime. As a matter of fact, over the last 5 fiscal years, we have spent $67 million in overtime, which is an astronomical sum of money.

We recognized that we would have at some point the ability to access the $13.6 million in personal services and the $4 million in nonpersonal services out of the Federal drug emergency money. We were spending that money as if we already had access to it.

We knew that once we reached a police officer strength of 4,355 that we would have direct access to the funds. It was our understanding that no reprogramming would be required. The money was virtually unencumbered in the way that the Congress intended us to use it, as long as it was used specifically for law enforcement purposes.

So, therefore, we were spending at a rate that would have consumed the entire personal services budget. When the City Council took its action to remove $3,072,000 not out of overtime, but out of regular pay, that money was already spent in effect. So it created tremendous problems for us.

Now on the issue of equipment, vehicles, typewriters, and radios, that is not a problem at this point. Senator, we have 1,688 radios that are, in fact, operational. We have an order for 953 radios. We never have 1,688 officers on the street at any one time.

On the issue of scout cars, our vehicle fleet is in the best shape that it has ever been. What the union complained about was rental vehicles, vehicles that we use to deal primarily with the issue of covert operations. We have since taken care of that. That is no longer an issue.

The issue of typewriters that we discussed yesterday with Mrs. Rolark and members of the council, were typewriters in the warehouse. All the managers had to do was to simply fill out a simple form, go in a car to Blue Plains, and pick up the typewriters. The unit that had complained about the typewriters had just received 20 brand new typewriters. There are brand new typewriters available.

Equipment in and of itself is not an issue at this point. To that extent, it was improper. I think the other thing that the union talked about is the same thing that we talked about yesterday and the Mayor mentioned this morning, which is how to speed up the purchasing process so that needed supplies are obtained on a more timely basis.

We at present have some 508 officers that are in the police recruit academy and on June 15, 1990, 241 of those officers will be coming out prepared for street duty. The only thing they have to do is be certified. Between June 22, 1990 and September 28, 1990, 370 officers will complete recruit training. They will be graduating within a 2-week span.

So as you can see, we are adding a number of personnel to street duty to make sure that our priorities get addressed and, I say this as clear as I can, my priority at this point in time is to deal with the problem of murder, as you have indicated. That is the most egregious problem facing this city.

When I read in the press, accounts that are clearly inaccurate, implying that somehow or another we have made Georgetown a priority over the murders in Southeast Washington, I am clearly resentful of that.

Our priority has always been that the bulk of the overtime money be spent in those areas where drugs and violence are the rule of the day. The perception that Washington is the murder capital goes out all over the country. That is the perception that we clearly must deal with. The second district did not even get overtime money, except for the Georgetown detail. The overtime money went to the other districts where the problem, as you indicated, is most egregious that we must address and what Mrs. Rolark continuously talks about.

So we try to do that in the deployment of personnel, but we do face this problem that we cannot continue to spend at the same rate in overtime because not only is it costly, but is it cost effective in the long run in terms of what impact these officers have?

It is more important for us, I believe, to get to the 5,055 police level. We believe we will reach that by the end of the first quarter of fiscal year 1991.

We think that is an important objective.

But the forecast in looking at our spending pattern clearly indicates that even with the reduced rates of overtime, if we are not careful to control costs we are going to be in serious trouble. I would like to give you another example. When we had night papering in court, the overtime was beginning to level off as it relates to court overtime. The first pay period after the U.S. attorney's office ended night papering, court overtime jumped $300,000. At the rate that we are spending, we are going to spend $15 million in court overtime this fiscal year. That is uncontrollable to the extent that we must pay the officers when they go to court. That is the kind of financial situation that we have found ourselves in.

The increase in equipment, the costs for equipment, the increase in costs for ammunition, the increase in cost for leased space, were having a tremendous impact on us and we did not just sit there and cavalierly make a decision about murder and violence. That is not my intention. I live in Anacostia and so I know that I am prejudiced toward making sure my neighborhood is safe. So I would not make any decision that would adversely affect Anacostia.

During this time, the city administrator and the members of the public safety and justice cluster had had many meetings talking about the budgetary problems that we were facing and the escalating expenditure rate. We talked about this in the context of trying to stay within our budget authority so that we would, in fact, portray not only that spending is under control, but that we were good managers trying to manage in a complex environment.

FIGHTING THE WAR AGAINST CRIME

Senator **Adams**. Thank you, Chief. That is what we have to have and we are putting in money, in addition to the Federal payment, into the "D.C. emergency drug" account so that there will be additional money.

The problem, Mr. Mayor and Chief and the other elected officials and others here, is that the American political scene has changed. The communications now are almost like an Athenian democracy. They go into everybody's home every night. Therefore, to correct that perception we have to solve the problem and the problem is that the murders have to stop. It is a war. I mean, I do not know about the rest of the country, but I know what you are facing in the streets out there now and we have just tried to shut off some of those weapons. It is awful.

So we are trying to be certain that you have the resources to fight this war and to win it. Putting the people on the streets is part of it and we will have the judges up and will go through that again and we will go through the other parts.

But what I am saying, I guess, Mr. Mayor, to you and the Chief and to the chairman of the City Council is that we have to have the information and when we get it late and we get it from sources other than the official sources, it is very bad on us and it is very bad on us in trying to make the budget proceed.

Thank you very much, Chief, for your explanation.

Mr. Mayor, I am pleased to hear further from you.

Mayor **Barry**. Thank you, Mr. Chairman.

I hope that we are beginning to come closer together on where we are on this issue. Let me just state that we are very aware that Washington, DC, is no ordinary town. Not that all of our towns are not as important, but we are the Nation's Capital and news does travel around the world about what happens in our town. I am very aware of that.

Senator **Adams**. Mr. Mayor, what I would like to have you do now, if you would, is give me a summary and anything else that you would like to state, because I would like to have Mr. Clarke make a statement and then we will have another hearing. This is not the end of it all and we are going to have the judges up and we will have the educational people up.

But I wanted to be certain that you had an opportunity to complete any statement you wanted to make because we have talked about one particular area. You can continue to talk about that or any other area. Then I want to go to Mr. Clarke for his statement and then we will recess these hearings subject to the call of the Chair and we will try to arrange another date for other parts of the government, or for your return, or the return of other officials, if that is deemed necessary.

COMPREHENSIVE APPROACH TO FIGHTING THE WAR ON DRUGS

Mayor **Barry**. Mr. Chairman, in summary on the public safety issue, Mr. Chairman, we think that we have had some great successes and I would like to just lay out briefly our philosophy about how we are fighting this situation.

We know that the tide in the country right now is more police officers, more jails, more guns, and longer sentences. We understand that. But the Chief and I were just chatting about that for a second. We have talked about it extensively. He agrees with me and vice versa, that the city government has taken a comprehensive approach to this. We have had 15 D.C. government agencies involved in this war on crime and violence. To show you how effective we have been, in the sixth district, where we have had a number of innovative approaches, the number of murders were 34 this time last year, and this year there were 12. Again, in that particular district, the number of murders, which were way up, are now coming down because we have taken a comprehensive approach.

We urge the committee as you look for resources for the police department, to not take those resources from the other agencies. The department of consumer and regulatory affairs, for instance, has been very helpful in helping us close down the crack houses with inspections. We have levied fines on landlords. The department of public works has been very effective in abandoned automobiles and street lights. The department of human services has been effective in social services for those persons who have been abandoned by their mothers and their fathers and neglected or abused or by those mothers who needed drug treatment.

So there are 15 agencies doing this. Unfortunately, because of the way the communications works, between you and me or the city and the Congress, usually it is via letters or occasional visits with you, it is difficult for you to always know all of that. We need to talk with the staff about a better way of keeping you informed. No; it is not your fault. It is just that we need to figure out a better way to keep you and the Congress informed about these successes because you are going to read about the negatives everyday.

So as we attack this problem, we ought to do it comprehensively. We are about to announce another major program called Not on Our Block. We will try to get people to say, "Not on our block these 10 things will happen," whether it is burglary, whether it is selling drugs, whether it is alcoholism, whether it is panhandling, whether it is auto larceny, or whatever, it will not happen on my block. We have about 40 community patrols now that are out patrolling every night. One is not very far from here at 14th and Constitution and it is doing an excellent job. There is one across the river in Fairlawn.

We are aware that Washington is the Nation's Capital; that we cannot do business as usual. There is a crisis situation in terms of crime and violence in America in general and Washington in particular, and that we are going to do all that we can to do to stop it. We just urge the Congress though not to take resources from other agencies to put in the police department.

Any new resources you give us, as you did last year, you can rest assured we are not going to turn them back. We are going to use them efficiently and effectively.

INCREASE IN THE FEDERAL PAYMENT

There are two or three other issues, Senator. Federal payment, you know the situation with that.

Senator ADAMS. I do, very well and I have stated to various officials that I have believed in a formula or a matching of local efforts, but this is not a particularly good year for me to bring that up and I have hesitated to do so. Now if we can get this other problem done, I am prepared to move forward on that again.

I have that in mind and I am hopeful that the committees and the blue ribbon committee we have out for the District committee that was appointed by yourself and has members from all segments of our society will recommend certain solutions to that.

Mayor BARRY. Mr. Chairman, let me just point out the facts about the flat Federal payment. Our local revenues have grown by 64 percent since——

Senator ADAMS. It is just, Mr. Mayor, I have managed to get this bill vetoed on other grounds. I have to be certain that you get a bill each year.

Mayor BARRY. I understand.

Senator ADAMS. I cannot carry that this year, but I understand the local effort has been substantial and I am hopeful we will begin to build support for that.

CONTROLLING THE SIZE OF THE GOVERNMENT

Mayor BARRY. The final issue, Mr. Chairman, well, next to the final issue, and you will probably hear from the council chairman about this. In a democracy you have differences of opinion between the legislation and the executive branch. I am sure they will have some difference of opinion about this police situation than we do. But you ought to know that we understand that that is a part of the democracy and we will take care of ourselves together, just as there are differences between the President and the Congress. So these are natural tensions. I used to be in the legislature, as you are now, and I understand those differences. But the city government, both the council and the executive branch, is united on our efforts to try to deal with public safety, but also deal with the whole question of the Federal payment.

The final point is controlling the size of the government that is on page 14 of my statement. Again, you hear a lot of rhetoric, a lot of debate, a lot of discussion, and read a lot of newspaper articles, about the D.C. government being too large, being bloated, being unmanageable. It is neither of those.

I think when you look at the D.C. government you will find that we perform State, county, and municipal functions. We are smaller than the city of Baltimore or other cities of comparable size. Again, the numbers may be there but as long as the perception is there we have got to deal with it.

Let me say for the record that in 10 years the city government has eliminated over 11,000 positions. That is a lot of positions and people. On the other hand, we have had a net increase of 9,300 of which 4,200 are the direct result of Federal mandate. On page 15 of my statement, you can see that 3,500 mental hospital workers were transferred from the Federal Government. They were former Federal employees of St. Elizabeths Hospital added at the direction of the President. There were 1,568 police officers—200 of which were added by Congress. We cannot cut there. Another 371 were firefighters and emergency medical staff. Also 1,247 were correctional officers and 1,392 were public school system positions. These accounted for 87 percent of the net increase of 9,300 positions.

We are trying to trim the government. We have a very efficient work force. Of course, you will have some people who do not work as hard as they ought to. Whenever we find them we try to get them out of our government.

Mr. Chairman, you have been in government before and you know sometimes it is not as easy to dismiss people as you want to. A great majority of our workers are working awfully hard. But, again, it is a matter of perception.

We hope we can work with the committee to demonstrate that the D.C. government is an efficiently run, well managed government. We are aware of our fiscal responsibility and that is to make sure that the taxpayers who are the ones who pay our salaries and the ones who are the stockholders in this corporation called the D.C. government get a dollar worth of service for a dollar paid. That is our commitment and that is our strong feeling about it.

CLOSING REMARKS OF MAYOR BARRY

Again, I want to thank you, Mr. Chairman, for this hearing. Thank you for your pointed questions. Again, and not just to say it because you are sitting here, we certainly consider you a friend of the District's. If I were sitting where you are, as I said earlier, it would be almost a thankless job in the sense that you have got to carry your weight for the State of Washington and our weight for the District of Columbia on your shoulders. You are broad enough to do it, but it is something that you do not have to do, but you are doing it because you care. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

Senator ADAMS. Thank you, Mr. Mayor. Thank you for your statement. I have some questions that I will submit to you to be answered for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR BROCK ADAMS

I. Police Resources

SENATOR ADAMS:
1. Mr. Mayor, during the past week the police department announced cutbacks in certain patrols. Over the weekend assaults in Georgetown prompted the police department to find other resources to restore half of the patrols planned for Georgetown. Where are those funds going to come from, and how much do you intend to use?

MAYOR BARRY:
1. As of May 5, 1990, the Metropolitan Police Department (MPD) had expended $21,702,800 in overtime costs. Of that amount, $14,140,000 has been covered with direct city appropriation. The cost, in excess of city appropriation, will be covered with lapsed salaries available as a result of vacant police officer positions. As of May 5, 1990, the estimated annual overtime cost for the Department was $36,765,258 with a projected personal services budget deficit of $2,794,000. If present spending rates continue the FY 1990 budget will have to be increased by an estimated $2,794,000 if the department is to remain within its budget for the year.

SENATOR ADAMS:
2. What is your current estimate of the department's overtime needs for the entire year?

MAYOR BARRY:
2. The current FY 1990 projected expenditure for departmental overtime is $36,765,258.

SENATOR ADAMS:
3. Will other summertime patrols in other areas of the City, scheduled for increase, be carried out?

MAYOR BARRY:
3. Yes. Specialized law enforcement initiatives which are particularly unique to the summer months will be met throughout the city with an adequate level of uniformed personnel.

As a result of our recent hiring of additional police officers, the increased level of visibility will allow the department to provide a maximum level of protection using only the regular duty force.

SENATOR ADAMS:

4. Why has only half of the normal summertime patrol been replaced?

MAYOR BARRY:
4. In an attempt to remain within the annual appropriated budget, patrol operations supported with

overtime have been reduced. Funds are not available to maintain the rate of activity attained in the first half of the fiscal year.

SENATOR ADAMS:
5. What police powers do police cadets have, how are they normally used?

MAYOR BARRY:
5. Police cadets do not possess police power, however they are authorized to issue parking citations. In addition, they serve the department in a number of capacities. These duties include traffic control, school cross walk assistance, report writing of various non-emergency incidents such as lost property, stolen bicycles, larcenies, etc., and assisting station clerks and desk sergeants in the units and divisions of the departments.

SENATOR ADAMS:
6. What is the status of special patrols in public housing?

MAYOR BARRY:

6. All public housing is routinely patrolled by the scout cars regularly assigned to the various areas. As needs and priorities require, foot and scooter patrols are deployed in these areas as well. With an increase of officers due to our recent force expansion, patrols within public housing will also increase.

II. FEDERAL PAYMENT

SENATOR ADAMS:
1. Mr. Mayor, we have stated that the Federal Payment has remained at the same level for four years now. During that period inflation has been 23%, so that the Federal Payment has not even kept up with inflation. What has this meant to the City's ability to meet the increasing costs of city services?

MAYOR BARRY:
1. From 1985 through 1990, the District's general fund expenditures will have increased an estimated 43 percent. Spending for public safety and human support services, the areas of the District's greatest spending pressures has increased 53 percent.

To finance the growing costs and compensate for the failure of the federal payment to grow, District taxpayers have raised their support by 54 percent over the same period. This increased tax revenue comes from two sources: growth in the tax base and increased taxes. Fortunately, during the 1985-1987 period, the economy of the District was robust, with low unemployment, relatively healthy retail sales, rising individual and business income, and rapidly growing values of especially commercial property. Thus, economic growth provided a significant amount of District government financing in those years.

However, the economy began to slow down in 1988 and continued to deteriorate. As a result, more financing had to come from higher taxes and cutbacks in services below the current services levels. Between 1985 and 1990, there were 15 increases in tax rates or extensions of the sales tax base. From fiscal year 1988 through the first fiscal year 1990 budget revision, agency budgets were reduced by a total of over $240 million. These cuts have affected routine services, such as auto registration and street cleaning, as well as more critical services, including job training, recreation center hours, and home purchase assistance. To minimize a likely fiscal year 1990 deficit caused by poor revenue performance and continuing spending pressures in human support services, a Mayor's order has been issued in July 1990 to block further use of nonpersonal services spending authority and to attempt thereby to reduce spending to $45 million below the revised fiscal year 1990 budget.

While annual increases in the federal payment would not have protected the District from the economic slowdown, they would certainly have mitigated the severity of the actions the District has had to take over the last few years to try to maintain balanced budgets and meet the most critical needs.

SENATOR ADAMS:
2. Have there been any discussions with the White House concerning remedying this situation?

MAYOR BARRY:
2. Every year I have submitted to the Office of Management and Budget a fairly extensive formal request for federal funds. An increase in the federal payment has always been part of that request. The payment levels that we have asked for have been derived from various formulas that would permit the payment to grow at rates parallel to various measures of the increasing costs of providing District services. For the last two years we have also attended budget hearings at OMB where we, of course, have reiterated and vigorously defended our requests. At those hearings OMB staff have hinted at the possibility that an increased federal payment would be considered if we could provide more justification or be more reasonable in our requests. After the first hearing we were encouraged to lower our request to improve its chances of being granted. We submitted an amended request immediately. However, the passbacks that followed those hearings included no increases, and despite our written and oral appeals, the passback levels have been sustained. At the appeals we have been told repeatedly that the Administration can not afford an increase in the federal payment--that there were no funds remaining.

In the past we have also suggested to OMB that a mutual effort be mounted to devise an acceptable formula for the federal payment. Although there was substantial interest in this in the early 1980s, OMB has shown no interest in recent years.

The following table summarizes the District's requests, OMB's final determination after the passback has been appealed, and the final appropriation.

($ Millions)

	D.C. Request	OMB Passback	Appropriation
FY 1980	N/A	317.0	276.5
FY 1981	N/A	301.0	300.0
FY 1982	333.0	336.0	336.0
FY 1983	373.6	361.0	361.0
FY 1984	382.3	386.0	386.0
FY 1985	442.0	425.0	425.0
FY 1986	485.0	425.0	412.4
FY 1987	539.0	445.0	444.5
FY 1988	478.4	425.0	430.5
FY 1989	465.0	430.5	430.5
FY 1990	462.0	430.5	430.5
FY 1991	463.6	430.5	N/A

SENATOR ADAMS:
3. Mr. Mayor, your statement notes that "service delivery plans are down to bare bones levels." If you had an additional $5 million in the Federal Payment where would you use those funds? How about an additional $10 million?

MAYOR BARRY:
3. The FY 1991 Appropriations Act contains language that requires that the amount allocated for public schools be increased dollar for dollar up to $36,400,000 by the amount the annual federal payment for fiscal year 1991 is increased above the current $430,500,000 federal payment level in fiscal year 1990. The Council added this language to fund the still to be negotiated salary increases for public school employees, including school teachers. Thus any amount above the $430,500,000 federal payment level is required to be allocated to the D.C. Public Schools.

In addition to the pay raise funding for the D.C. Public Schools, there are other critical funding needs of the District. In my letter to you dated July 11, 1990, I outlined these needs and requested your assistance in resolving the current financial problems of the District. My letter spelled out three objectives which included: (1) an increase in the federal payment of $86.4 million above the level of $430.5 million; (2) revised language in the FY 1991 appropriations act, to permit the use of bond proceeds to repay by November 30, 1990, the $10 million originally designated for prison construction but made available for corrections operating costs by the fiscal year 1990 supplemental appropriations act; and (3) approving the additional $5.5 million federal payment increase recommended by the President in FY 1991 for the Mental Health Commission of the Department of Human Services.

In light of the District of Columbia's difficult financial circumstances in fiscal year 1990 and the expected continuation of a revenue shortfall and spending pressures into fiscal year 1991, an increase in the federal payment of $86.4 million, including $36.4 million for the Public Schools and $50 million for unmet and underfunded needs, mainly in the public safety and human services areas is absolutely critical for the financial stability of the city in FY 1991.

An increase in the base federal payment is long overdue. While the costs of governing the District of Columbia have increased steadily since 1985, the federal payment has remained virtually flat. In fiscal year 1985 it was $425 million; in fiscal year 1990, five years later, it was $430.5 million. Because the costs of providing services to the citizens and making the city a viable community increased during the intervening years, the federal payment has decreased as a proportion of actual District revenue (adjusted for special federal payments)--from 19.5 percent in 1985 to 14.2 percent in 1990. With only a $430.5 million federal payment in fiscal year 1991, this ratio would drop further, to 13.4 percent. In real terms, the federal payment has declined 21 percent through 1990, using the overall implicit state-local price deflator.

In addition to the lack of growth in the federal payment, the District has endured the threat of annual sequestration of that payment under the Gramm-Rudman-Hollings law. In fiscal year 1986, the threat became reality, and halfway through the year the District suffered a $12.6 million reduction in the base payment.

Our first obligation pursuant to the language in the fiscal year 1991 Appropriations Act is to dedicate any additional federal payment to cover the expense of pay raises for D.C. Public School teachers up to a cost of $36.4 million. Teacher pay raises are needed according to the D.C. Public Schools and The Committee of Public Education in order to make District school teacher salaries more competitive with the suburbs. Inasmuch as this need exists, and given the likely prospect that negotiations with the teachers' union will result in a significant pay raise for teachers, it is prudent that we dedicate the initial increase in the federal payment to this purpose.

Before we can consider other additional program costs, such as those developed in response to your request for additional anti-drug and crime initiatives, we must seek to cover the cost of ongoing essential programs so that the District can balance its budget in fiscal year 1991. The preferred way in which the Congress could assist the District in this effort is through an increase in the base federal payment. As I stated earlier, an increase in the base federal payment is long overdue. Increasing the base payment would allow the District of Columbia to allocate any increase to local priorities through the local political process. As an example of the kinds of unmet needs we are facing which would warrant a further increase in the base federal payment, we have developed the attached list of $50 million worth of anticipated costs for fiscal year 1991, which at this time appear to be unavoidable and underfunded.

Attached to the list is a detail description of the $50 million request by agency. These items will require funding in fiscal year 1991 through reprogramming from other budgeted items or from additional revenue. Alternatively, these program efforts will have to be cut back. Should the revenue shortfall persist into fiscal year 1991, even more severe cutbacks or alternative solutions will be required.

While we very much would like to increase our anti-drug and crime initiative as indicated in the letter to you, we must first consider the financial health of the District of Columbia, and recognize that the services we have described in the attached list of $50 million of needs are basic and vital to the city. Substantial federal dollars have already been devoted to law enforcement efforts. Our request for $50 million adds even more needed funding to that effort, but also balances it with other vital needs to keep our government functioning and to retain critical social services which maintain stability even as we strive to address the urgent problems of drug and crime activity.

These are trying financial times for the District. However, we are working very hard to meet the challenge. We will endeavor to cut expenditures and raise revenue to avoid a year-end revenue deficiency and to avoid any deficiency in fiscal year 1991. We do need your help, though.

I am enclosing the entire letter I sent to you on July 11, 1990 for the record which includes the detailed listing of the increase in the federal payment of $86.4 million. The $86.4 million increase includes $36.4 million for the public schools and $50.0 million in unmet and underfunded needs.

LETTER FROM MARION BARRY, JR.

July 11, 1990

The Honorable Brock Adams
Chairman, Subcommittee on Appropriations
for the District of Columbia
United States Senate
Hart Office Building
Room SH-513
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing this letter seeking the assistance of the U.S. Congress in helping the District of Columbia resolve some of its current financial problems.

First, I want to say that I am very appreciative of the support you have given to the District government over the years. The District is a great city and the greatest capital city in the world to a large extent because of your dedication and concern. Showing skill and compassion, you have involved yourself in issues relating to this fine city when the time was right. At other times, with great diplomacy, you have left local matters in the hands of local officials, preferring not to interfere in the local political process. To walk this fine line between appropriate leadership and inappropriate intervention takes extraordinary skill and strong character. I laud your caring tactful leadership and your availability to the citizens of the District of Columbia each and every time we have needed your assistance.

Today, I am asking again for your assistance: the District of Columbia needs your help in weathering its most recent financial storm, particularly in shoring up its faltering revenue situation by increasing the fiscal year 1991 federal payment by $86.4 million.

As you know, on top of the continuing budgetary challenges facing the District in public safety and human services, the District--like other eastern seaboard states and scores of urban communities--is experiencing worsening economic conditions and resultant revenue shortfalls. While the economy of the District of Columbia is still strong, we are not seeing the kind of robust economic growth typical of the mid 1980's. Indeed, the recently announced Garfinkel's bankruptcy may presage further deterioration in the District's revenue situation. Therefore, we are being forced to revise our revenue estimates downward and make very painful budget reductions.

As you probably have heard in testimony from my agency directors and others delivering city services, we have cut back in virtually all areas to support increases in human services and public safety programs. I have forwarded to the D.C. Council additional painful agency budget rescissions and tax increases for fiscal year 1990 to offset continuing overwhelming costs in the Department of Human Services and revenue shortfalls particularly in sales and income taxes.

The District is committed to living within its resources and is willing to endure the necessary pain to do so. To achieve this end, however, we request your help in achieving three objectives: 1) including in the fiscal year 1991 appropriations act, revised language to permit the use of bond proceeds to repay by November 30, 1990, the $10 million originally designated for prison construction but made available for corrections operating costs by the fiscal year 1990 supplemental appropriations act; 2) approving the additional $5.5 million federal payment increase recommended by the President in FY 1991 for the Mental Health Commission of the Department of Human Services; and 3) requesting an $86.4 million increase in the federal payment for fiscal year 1991 over and above the level of $430.5 million recommended by the President.

FY 1991 Appropriations Language Regarding Repayment of $10 Million for CTF

Because of the strict rules generally accepted accounting principles impose on revenue recognition, the current requirement to repay the $10 million in prison construction funds to the U.S. Treasury out of fiscal year 1991 operating revenue will mean that the District will be unable to recognize the $10 million cash receipts as revenue in fiscal year 1990. The requirement to repay prison construction funds from fiscal year 1991 operating revenues makes the $10 million transfer a liability of the General Fund on September 30, 1990. Therefore, if the District cannot repay the $10 million liability in fiscal year 1991 using bond proceeds, the District will automatically sustain a $10 million deficiency of revenue versus expenditures in the General Fund this fiscal year.

To prevent this unfortunate, and we believe, unintended occurrence, we propose inserting language into the fiscal year 1991 appropriations act that simply changes congressionally approved language to reflect repayment from bond proceeds by November 30, 1990. This change will not affect federal budget authority or outlays for either fiscal year 1990 or fiscal year 1991. Under current law, fiscal year 1990 outlays for the prison construction and corrections operating costs will be $40 million--$30 million and $10 million respectively. In both the current and proposed lanaguage, repayment of $10 million would be treated as a reimbursement from the District and would be immediately available for outlay for prison construction.

Additional $5.5 Million Federal Payment for Mental Health Services

In anticipation of the approval of the $5.5 million increase in the federal payment over the authorized level, as proposed by the President, the approved budget of the District's mental health budget was kept $5.5 million lower than total requirements. We ask that if the $5.5 million payment is approved, that the budget authority for mental health in the Department of Human Services be increased by an equal amount.

Increase in Federal Payment of $86.4 Million

In light of the District of Columbia's difficult financial circumstances in fiscal year 1990 and the expected continuation of a revenue shortfall and spending pressures into fiscal year 1991, any potential additional federal payment must be allocated carefully and prudently. I am requesting an increase in the federal payment of $86.4 million, including $36.4 million for the Public Schools as required in the fiscal year 1991 appropriations act and $50 million for unmet and underfunded needs, mainly in the public safety and human services areas.

An increase in the base federal payment is long overdue. While the costs of governing the District of Columbia have increased steadily since 1985, the federal payment has remained virtually flat. In fiscal year 1985 it was $425 million; in fiscal year 1990, five years later, it was $430.5 million. Because the costs of providing services to the citizens and making the city a viable community increased during the intervening years, the federal payment has decreased as a proportion of actual District revenue (adjusted for special federal payments)--from 19.5 percent in 1985 to 14.2 percent in 1990. With only a $430.5 million federal payment in fiscal year 1991, this ratio would drop further, to 13.4 percent. In real terms, the federal payment has declined 21 percent through 1990, using the overall implicit state-local price deflator.

In addition to the lack of growth in the federal payment, the District has endured the threat of annual sequestration of that payment under the Gramm-Rudman-Hollings law. In fiscal year 1986, the threat became reality, and halfway through the year the District suffered a $12.6 million reduction in the base payment.

Our first obligation pursuant to the language in the fiscal year 1991 Appropriations Act is to dedicate any additional federal payment to cover the expense of pay raises for D.C. Public School teachers up to a cost of $36.4 million. Teacher pay raises are needed according to the D.C. Public Schools and the Committee on Public Education in order to make District school teacher salaries more competitive with the suburbs. Inasmuch as this need exists, and given the likely prospect that negotiations with the teachers' union will result in a significant pay raise for teachers, it is prudent that we dedicate the initial increase in the federal payment to this purpose.

Before we can consider other additional program costs, such as those developed in response to your request for additional anti-drug and crime initiatives delineated in our letter to you dated July 2, 1990, we must seek-to cover the cost of ongoing essential programs so that the District can balance its budget in fiscal year 1991. The preferred way in which the Congress could assist the District in this effort is through an increase in the base federal payment. As I stated earlier, an increase in the base federal payment is long overdue. Increasing the base payment would allow the District of Columbia to allocate any increase to local priorities through the local political process. As an example of the kinds of unmet needs we are facing which would warrant a further increase in the base federal payment, we have developed the attached list of $50 million worth of anticipated costs for fiscal year 1991, which at this time appear to be unavoidable and underfunded.

Attached to the list is a detail description of the $50 million request by agency. These items will require funding in fiscal year 1991 through reprogramming from other budgeted items or from additional revenue. Alternatively, these program efforts will have to be cut back. Should the revenue shortfall persist into fiscal year 1991, even more severe cutbacks or alternative solutions will be required.

While we very much would like to increase our anti-drug and crime initiative as indicated in our letter to you, we must first consider the financial health of the District of Columbia, and recognize that the services we have described in the attached list of $50 million of needs are basic and vital to the city. Substantial federal dollars have already been devoted to law enforcement efforts. Our request for $50 million adds even more needed funding to that effort, but also balances it with other vital needs to keep our government functioning and to retain critical social services which maintain stability even as we strive to address the urgent problems of drug and crime activity.

These are trying financial times for the District. However, we are working very hard to meet the challenge. We will endeavor to cut expenditures and raise revenue to avoid a year-end revenue deficiency and to avoid any deficiency in fiscal year 1991. We do need your help, though.

We are hopeful that you will assist us, and my staff and I are available, as always, to answer any questions you may have.

Sincerely,

Marion Barry

Marion Barry, Jr.
Mayor

Enclosure

SUMMARY CHART
Federal Payment Increase Request

1. First Priority:		$36,400.0
D.C. Public Schools payraise funding as required by FY 1991 Appropriations Act	$36,400.0	
2. Second Priority:		50,000.0
Police Department	5,000.0	
Department of Corrections	7,000.0	
Fire Department	2,000.0	
Department of Human Services	29,300.0	
Office of Personnel	700.0	
Department of Administrative Services	1,000.0	
Department of Public Housing	4,000.0	
Department of Finance and Revenue	500.0	
Office of Financial Management	500.0	
Total Federal Payment Request		$86,400.0

FY 1991 ADDITIONAL BUDGET REQUIREMENTS

LEVEL 1	$36,400.0
1. D.C. PUBLIC SCHOOLS (GA)	$36,400.0

The Council added language in the FY 1991 Appropriations Act which requires that any funding above the federal payment level of $430.5 million be allocated to the D.C. Public Schools. This funding was requested by the Publich Schools for pay increases including increases for teachers.

The language states, "Provided further, That the amount allocated under this title for the public schools shall lbe increased, dollar for dollar up to $36,400,000, by the amount the annual federal payment for Fiscal Year 1991 is increased above the current $430,500,000 federal payment in Fiscal Year 1990."

Thus any funding above the $430.5 million has to go for the D.C. Public Schools.

FY 1991 ADDITIONAL REQUIREMENTS
$50.0 Million Request
($ Millions)

	Total Amt.	Detailed Description
1. Level 1		
1. Police Department	5.0	a. 5.0 - Police overtime.
Total Level 1	5.0	5.0
2. Level 2		
1. Department of Corrections	5.0	a. 1.9 - Restore Council cuts to Supplies, Other Services & Charges, and Equipment in order to enable the department to adequately feed, clothe, treat, and secure the inmate population.
		b. 3.1 - Payments to FBOP and State facilities to meet the increased cost of housing prison inmates.
Total Level 2	5.0	5.0
3. Level 3		
1. Fire Department	2.0	a. .5 - Restore Council cut for overtime to allow for firefighter and EMT training.
		b. .2 - Restore Council cut for Paramedic training.
		c. .3 - Restore Council cut for ambulance and fire dispatcher personnel.
		d. 1.0 - Restore Council cuts to Supplies, Other Services & Charges, and Equipment in order to adequately maintain the ambulance and firefighting operations as well as the maintenance of fire houses.
Total, Fire Dept.	2.0	2.0
2. Department of Human Services	2.3	a. 2.3 - Meet requirements of Jerry M. Consent Decree and operation of youth detention facilities.
3. Office of Personnel	.7	a. .7 - Restore Council cuts needed to maintain current staffing levels to recruit and process public safety personnel as police, firefighters and correctional officers.
Total Level 3	5.0	5.0
4. Level 4		
1. Department of Administrative Services	1.0	a. 1.0 - Restore Council cuts needed to maintain current staffing levels in the support and housekeeping areas, especially in procurement and contracting as they relate to Police, Fire and Corrections.

2. Department of Human Services	4.0	a.	.4	Strengthen contracting and procurement area.
		b.	.6	ACEDS Computer automation system.
		c.	3.0	Forest Haven compliance with Dixon Consent Decree to outplace residents.
Total, Human Services	4.0		4.0	
Total Level 4	5.0		5.0	

5. Level 5

1. Department of Human Services	5.0	a.	5.0	Medicaid - provide uncompensated care for trauma services and cost settlement claims from area hospitals and D.C. General.
Total Level 5	5.0		5.0	

6. Level 6

1. Department of Human Services	5.0	a.	5.0	Mental Health - fund revenue shortfalls and Council cuts in personal services due to decline in the federal subsidy for St. Elizabeths Hospital and medicaid reimbursements.
Total Level 6	5.0		5.0	

7. Level 7

1. Department of Finance and Revenue	.5	a.	.5	Restore Council cut for the Audit Compliance and Investigative Unit which will identify areas of noncompliance, add taxpayers to the tax rolls, and collect taxes owed to the District.
2. Office of Financial Management	.5	a.	.5	Pay and Retirement System personnel to ensure timely processing of public safety compensation claims and retirement benefit payrolls in addition to funding the complement of existing staff positions.
3. Department of Public Housing	4.0	a.	4.0	Compliance with Memorandum of Understanding with HUD.
Total Level 7	5.0		5.0	

8. Level 8

1. Department of Human Services	5.0	a.	3.0	Increased Foster Care costs.
		b.	2.0	Youth Services compliance with Jerry M. Consent Decree to place youth.
Total Level 8	5.0		5.0	

9. Level 9

1. Department of Human Services	5.0	a.	3.0	Mental Health - fund shortfalls due to a decline in the federal subsidy for St. Elizabeths Hospital and medicaid reimbursements.
2. Department of Corrections		a.	2.0	Drug counseling and food service requirements.
Total Level 9	5.0		5.0	

10. Level 10

1. Department of Human Services	5.0	a. 4.0 - Medicaid - fund cost settlements with area hospitals.
		b. 1.0 - Income Maintenance - implementing Welfare Reform Act.
Total Level 10	—	5.0
Grand Total............	50.0	50.0

FY 1991 ADDITIONAL BUDGET REQUIREMENTS

LEVEL 1 $5,000.0

1. METROPOLITAN POLICE DEPARTMENT (FA) $5,000.0

a. Overtime $5,000.0

The FY 1991 overtime budget for the Metropolitan Police Department (MPD) is $14,140.0, the same as the approved FY 1990 budget. The continued increase in drug-related crime and violence in FY 1990 has necessitated special deployment of police officers, particularly in high-crime areas.

The department has increased its enforcement activities through the use of overtime. MPD has spent $21,454.0 -- approximately $1,400.0 per pay period -- for enforcement and court-related overtime through May 31, 1990, and projects that it will spend approximately $35,500.0 by the end of the fiscal year.

The Police Department has taken steps to reduce enforcement overtime. However, spending for court-related overtime will continue and is projected to be approximately $15,000.0, which is 100 percent above the FY 1989 spending level. The increase in the number of arrests and the complexity of court cases have necessitated more court appearances by police officers.

Because MPD projects that it will be close to full police officer strength in the first quarter of FY 1991, enforcement overtime is expected to decrease. In FY 1991, court-related overtime is estimated to be approximately the same as the FY 1990 forecast of $15,000.0. Total overtime is projected to be approximately $20,000.0. However, the FY 1991 budget does not provide additional authority for overtime. Therefore, an additional $5,000.0 will be needed to fund court-related overtime.

LEVEL 2 $5,000.0

1. DEPARTMENT OF CORRECTIONS (FL) $5,000.0

a. Supplies (20), Equipment (70) and Other Services and Charges (40) $1,900.0

The Council cut $1,896.0 in nonpersonal services funding from supplies and materials (20), equipment (70), and other services and charges (40). These reductions present significant problems to the department's ability to feed, clothe, treat, and secure the inmate population. As it was, the department did not request additional funding to offset the effects of inflation on purchasing power in the FY 1991 budget. Inflation's impact has been absorbed by achieving cost efficiencies and deferring obligations. Furthermore, the department requested no additional funding to support a projected population growth of 800 in the institutions. The arbitrary reduction of this nonpersonal services authority compromises the department's capability to service the inmate population.

b. Federal Bureau of Prisons and State Payments $3,100.0

The FY 1991 budget request for the Federal Bureau of Prisons control center is $52,364.0. The requested appropriation will support 2,845 prisoners in federal and state facilities at an average daily cost of $48.88. It also funds 105 District prisoners returned from federal institutions and housed in local contract halfway houses at $41.01 per day.

At this time the population projections for federal and state facilities seem reasonable. However, there has been a significant increase in the average cost per day charged by the Federal Bureau of Prisons, from $45.75 in FY 1989 to $51.23 in the first quarter of 1990, and up to $53.40 during the second quarter.

There is considerable uncertainty as to what may happen in terms of the cost of housing inmates in state and county facilities. At least one state is attempting to raise the per diem it charges considerably above the current rate, and one other state wants to cease doing business with the District. Both actions could potentially result in higher rates and consequently increased costs to the department.

The increase requested of $3,100.0 will help offset the increase in the average daily cost to house inmates in federal facilities and state and county facilities which has increased since the preparation of the FY 1991 budget.

LEVEL 3 $5,000.0

1.FIRE DEPARTMENT (FB) $2,000.0

The Fire Department's FY 1991 operating budget was reduced by $2.3 million by the District Council. The impact of the reductions on service delivery is summarized below. The request is to restore $2.0 million as follows:

a. Overtime for Firefighter and Ambulance Personnel .. $500.0

The reduction in overtime limits the number of firefighters trained in basic fire fighting and as emergency medical technicians (EMTs). Overtime is used to staff workstations to provide relief when firefighters are being trained. Firefighters are usually trained in groups of 24 for 80 days -- 60 days for basic fire fighting and 20 days as emergency medical technicians. Currently, 70 new firefighters are serving in their companies without the benefit of basic fire fighting or EMT training. The $500.0 reduction equals the cost of training 32 new firefighters or 96 EMTS. A reduction in the number of firefighters trained as EMTs limits the number of trained staff available to provide basic ambulance service.

b. Paramedic Training $200.0

On the average, of the 21 units providing emergency ambulance service daily, only five are advanced lift support (ALS) ambulances staffed with paramedics. The Fire Department plans to train 60 of its ambulance personnel each year to be paramedics in order to establish an all advanced life support system. The reduction in paramedic funding will result in a decrease in the number of paramedics trained from 60 to 55, thereby reducing the number of ambulance staff trained to provide advanced life support services.

c. Ambulance and Fire Dispatchers $300.0

The reduction in funding for ambulance and fire dispatchers will result in a decrease in the number of fire and ambulance dispatching workstations from 12 to 10. This could limit quick access to the 911 emergency phone system.

d. Supplies (20), Other Services & Charges (40), and Equipment (70) $1,000.0

The reduction in supplies will decrease the funds available to purchase parts for ambulances and fire trucks. This will reduce the Fire Department's ability to keep ambulances in service and have fire companies respond to all medical calls. Moreover, reduced funding will decrease the amount of ambulance first aid supplies available. A decrease in funding for Other Services and Charges will delay repairs and maintenance to approximately 40 buildings, thereby increasing exposure to system failure, especially underground fuel storage tanks. A reduction in equipment will impact the Fire Department's ability to replace and maintain equipment and hamper its ability to provide effective public safety services.

In sum, the reduction of $2.0 million in the Fire Department's FY 1991 budget could compromise public safety capabilities in fire fighting as well as emergency ambulance service.

2. DEPARTMENT OF HUMAN SERVICES - Commission on Social Services .. $2,300.0

a. Youth Services Administration (YS) $2,300.0

This request for an additional $2,300.0 will restore $1,751.0 in Council cuts, and provides an additional $549.0 toward youth outplacements. The additional $2,300.0 will enable YSA to maintain the required staffing level to operate the detention facilities; provide rehabilitation and custodial services for troubled youth; and continue to acquire community facilities for resident youths as a requirement of the court ordered Jerry M. Consent Decree.

The breakdown of the $2,300.0 is as follows:

Personal Services (11)	$1,487.0
Fringe Benefits (14)	164.0
Other Services and Charges (40)	100.0
Subsidies and Transfers (50)	549.0
Total	$2,300.0

3. OFFICE OF PERSONNEL $762.0

a. Personal Services $762.0

The Office of Personnel's FY 1991 budget was cut by $762.0 in personal services by the District Council with the mandate that $500.0 be funded with indirect cost recovery funds. This will be devastating to an agency that will have to hire over 1,000 public safety employees.

The current level of personal services funding is insufficient to support on-board employees. Savings from attrition will be inadequate. Also, the availability of indirect cost recovery funds to support continuing full-time positions is uncertain and the Council reduction in budget authority to be made up with indirect cost recovery funds is unreliable. Using indirect cost funds is a temporary solution at best.

With the mandate to hire 700 police officers, fill over 100 firefighter vacancies, and hire corrections personnel to replace the contracting-out of medical services, the Department needs adequate staffing levels to do all the necessary work involved in hiring over 1,000 public safety employees. The agency needs to have the base budget funded adequately from appropriated sources or entertain reductions in staff.

The breakdown of the $762.0 is as follows:

1. Personal Services:

a. annualization of FY 1990 mid-year pay adjustment and within grades	$262.0
b. funding to be made up through indirect cost recovery funds	500.0
Total	$762.0

LEVEL 4 **$5,000.0**

1. DEPARTMENT OF ADMINISTRATIVE SERVICE (AS) $1,000.0

a. Personal Services $1,000.0

The current level of personal services funding is insufficient to support on-board staff. This problem will continue into FY 1991 which will be compounded by the Council's cut in the Department's FY 1991 personal services' budget of $1,650.0. The Council directed that $500.0 of this reduction be made up with indirect cost recovery funds.

The availability of indirect cost recovery funds to support continuing full-time positions is uncertain and the Council reduction in budget authority to be made up with indirect cost recovery funds is unreliable. Using indirect cost funds is a temporary solution at best.

While there will be no elimination of essential services, the impact of the loss of $1,650.0 will result in additional delays in processing contracts, executing leases and delivering mail. There also will be reduced levels of services in the areas of janitorial, security and shuttle bus services.

The increased funding of $1,000.0 will help offset the loss in many of these important support and housekeeping services provided to almost all District agencies. This will be especially crucial in the contracting area as the Department will need sufficient personnel to procure the supplies and equipment needed for the over 1,000 new public safety personnel including the 700 new police officers.

The breakdown of the $1,000.0 is as follows:

Personal Services (11)	$1,000.0

2. DEPARTMENT OF HUMAN SERVICES (JA) $4,000.0

a. Bureau of Habilitation Services/Forest Haven (FH) - $3,000.0

The Bureau of Habilitation Services will spend approximately $19,000.0 in FY 1990 due to revenue shortfalls. These shortfalls are the result of losing medicaid certification.

The additional $3,000.0 will assist the Department's efforts to outplace residents in community based facilities per the Dixon Consent Decree, and maintain the court mandated staffing ratios and services for the remaining residents for medicaid certification.

The breakdown of the $3,000.0 is as follows:

Personal Services (11)	$2,703.0
Fringe Benefits (14)	297.0
Total	$3,000.0

b. Executive Direction and Support (DD) $1,000.0

This request will restore $1,000.0 in cuts made by the Council which will enable the Executive Direction and Support Control Center to operate at FY 1990 staffing levels, support the implementation of the Automated Client Eligibility Determination System (ACEDS) and enhance contract and procurement operations. These initiatives will assist the department's efforts to integrate entitlement support services for District residents needing various forms of assistance, and to administer and monitor contracts issued by the department.

The breakdown of the $1,000.0 is as follows:

Personal Services (11)	$196.0
Fringe Benefits (14)	22.0
Other Services and Charges	691.0
Equipment	91.0
Total	$1,000.0

LEVEL 5 $5,000.0

1. DEPARTMENT OF HUMAN SERVICES $5,000.0

a. Medicaid and Medical Charities (MM) $5,000.0

This request for an additional $5,000.0 for Medicaid/Medical Charities will provide additional support for hospital uncompensated care in the area of trauma services and cost settlement claims from area hospitals and D.C. General Hospital. The drug epidemic has impacted greatly on the trauma services at the District hospitals especially in the area of uncompensated care and these funds will help offset these costs.

The breakdown of the $5,000.0 is as follows:

Subsidies and Transfers	$5,000.0

LEVEL 6 $5,000.0

1. DEPARTMENT OF HUMAN SERVICES - Commission on Mental Health $5,000.0

a. Deputy for Administration (OA) $3,609.0

b. Adult Services Administration (AS) $1,391.0

This request for an additional $5,000.0 for the Commission on Mental Health (CMH) will restore $366.0 in Council cuts in personal services to the Deputy for Administration (OA) and $270.0 in Council cuts in personal services to Adult Services (AS), and provides $4,364.0 in additional support for personal services (PS) revenue shortfalls. The revenue shortfalls are a result of the decline in the federal subsidy for St. Elizabeths Hospital and medicaid reimbursements, both of which have to be made up with local District funds.

The requested funds will support the current level of expenditures and assist the Commission in maintaining medicaid certification, and complying with Dixon vs Sullivan Consent Decree requirements.

The breakdown of the $5,000.0 is as follows:

a. Deputy for Administration (OA)

Personal Services (11)	$3,222.0
Fringe Benefits (14)	387.0
Total	$3,609.0

b. Adult Services Administration (AS)

Personal Services (11)	$1,253.0
Fringe Benefits (14)	138.0
Total	$1,391.0

LEVEL 7 $5,000.0

1. DEPARTMENT OF FINANCE AND REVENUE (CA) $500.0

In order to achieve the highest possible degree of voluntary compliance with the District's business and income tax laws the Audit Compliance and Investigative Unit (ACI) will identify areas of noncompliance, add taxpayers to the tax rolls and collect taxes owed to the District. It is estimated that this effort will generate an additional $4 million in tax revenue in FY 1991 if the funding were restored to the Department's operating budget to support this program. Despite the fact that $500.0 in funding and 12 positions for the ACI unit were cut by the Council, the revenue for the unit remained in the budget revenues submitted to Congress for FY 1991. It is included as a part of the pending authority of $16.1 million labeled "DFR Initiatives" on Table IV-2 of the FY 1991 Operating Budget Request (page IV-5).

The requested increase of $500.0 consists of $450,000 for personal services funding for twelve positions in and $50,000 in nonpersonal services as follows:

DS-14 Supervisory Tax Auditor	$ 53.0
DS-13 Tax Auditors (2)	90.0
DS-12 Tax Auditor	38.0
DS-11 Tax Auditor	32.0
DS-11 Revenue Officers (2)	62.0
DS-09 Revenue Officers (2)	53.0
DS-09 Management Analyst	27.0
DS-07 Revenue Officer	22.0
DS-07 Tax Examining Assistant	22.0
Fringe Benefits (14)	51.0
Subtotal Personal Services	450.0
Supplies (20)	5.0
Other Services and Charges (40)	45.0
Subtotal Nonpersonal Services	50.0
Total Budget	$500.0

2. OFFICE OF FINANCIAL MANAGEMENT (BF) $500.0

The Office of Financial Management's Pay and Retirement Section is understaffed which has impacted on the timely processing of retirement benefit payrolls and compensation claims. This is especially crucial in the area of police, fire, judges and teachers. An increase in staff is critical as many police officers and firefighters are opting to retire over the next several years as they reach their 20 year service requirement.

In addition to the new positions requested funds are also required to fully fund the staffing complement of positions throughout the agency including the controllers office, the treasurer's office and the Office of Information Services. Staff support is critical in these areas as the current financial condition of the City requires the strict monitoring of spending and continuous analysis of our cash flow position.

The breakdown of the $500.0 as follows:

6 DS-09 Retirement Examiners (11)	$158.0
Fringe Benefits (14)	18.0
Personal Services Shortfall	264.0
Subtotal Personal Services	440.0
Supplies and Equipment (20)	20.0
Other Services and Charges (40)	40.0
Subtotal Nonpersonal Services	60.0
Total Budget	$500.0

3. DEPARTMENT OF PUBLIC AND ASSISTED HOUSING (PH) $4,000.0

The Department of Public and Assisted Housing (DPAH) entered into a memorandum of understanding with the U.S. Department of Housing and Urban Development to assist DPAH as a housing authority in setting performance standards; measuring progress toward achieving goals and targets; and achieving an acceptable level of performance.

The major areas of performance goals and targets included (1) rent collection, (2) occupancy/tenant screening, (3) audits, (4) vacant unit turnaround, (5) security,

(6) modernization and development activities, and (7) staffing. In carrying out these goals and targets a request of $4,000.0 is required.

The breakdown of the $4,000.0 as follows:

a. Personal Services for 2 pos. (11)		$ 28.9
b. Fringe Benefits (14)		5.8
c. Low Rent Housing Subsidy		
(1) Personal Services for 64 pos.	$1,591.1	
Fringe Benefits	318.2	
Security Contract	906.1	
Other	1,149.9	3,965.3
Total Budget		$4,000.0

LEVEL 8 $5,000.0

1. DEPARTMENT OF HUMAN SERVICES - Commission on Social Services .. $5,000.0

a. Foster Care (FC) $3,000.0

b. Youth Services (YS) $2,000.0

This request for an additional $5,000.0 for the Commission on Social Services (CSS) will provide $3,000.0 for the foster care program and $2,000.0 for the youth services program.

The $3,000.0 for foster care will restore $100.0 in Council cuts and provide an additional $2,900.0 to support the increasing cost for foster care and special support services. Today's wards are requiring more special services such as mental health, medical treatment, counseling, physical therapy, and other forms of assistance. The additional funds will enable the Department to keep pace with the steady increase in foster care homes, special services needs, and assistance..

The increase in funding for the youth services of $2,000.0 is to expand the number of beds in community-based residential facilities for outplacing youth as required in the Jerry M Consent Decree.

The breakdown of the $5,000.0 is as follows:

a. Foster Care (FC)	
Subsidies and Transfers (50)	$3,000.0
b. Youth Services (YS)	
Subsidies and Transfers (50)	2,000.0
Total	$5,000.0

LEVEL 9 $5,000.0

1. DEPARTMENT OF HUMAN SERVICES - Commission on Mental Health $3,000.0

   a. Commissioner of Mental Health (CM) $177.0

   b. Forensic Services (FO) $1,784.0

   c. Child/Youth Services (CY) $1,039.0

   This request for an additional $3,000.0 will restore $621.0 in personal services cuts made by the Council to the Commission on Mental Health (CMH) and provide additional support for revenue shortfalls in Mental Health's Forensic Services and Child/Youth Services. The Council cuts of $621.0 include $177.0 in the Commission on Mental Health, $105.0 in Forensic Services, and $339.0 in Child/Youth Services. The revenue shortfall of $2,379.0 is a result of a decline in the St. Elizabeths payment and Medicaid reimbursements which have to be made up with District funds.

   The breakdown of the $3,000.0 is as follows:

   a. Commissioner on Mental Health (CM)

Personal Services (11)	$159.0
Fringe Benefits (14)	18.0
Total	$177.0

   b. Forensic Services (FO)

Personal Services (11)	$1,600.0
Fringe Benefits (14)	184.0
Total	$1,784.0

   c. Child/Youth Services (CY)

Personal Services (11)	$930.0
Fringe Benefits (14)	109.0
Total	$1,039.0

2. DEPARTMENT OF CORRECTIONS 2,000.0

   a. Drug Counseling and Food Service Requirements $2,000.0

   The Department was forced to reduce its nonpersonal services budget in FY 1991 to meet undesignated expenditure reductions. The reductions that have been offered include food services and drug counselling at a minimum cost. Both reductions are extremely sensitive and, realistically, there are no viable alternatives that can be substituted and not disrupt essential services. The $2,000.0 is essential to the operation of the Department.

LEVEL 10 **$5,000.0**

1. **DEPARTMENT OF HUMAN SERVICES** **$5,000.0**

   a. **Medicaid and Medical Charities** (MM) $4,000.0

   b. **Income Maintenance (IM)** $1,000.0

This request for an additional $5,000.0 will provide (1) additional funding for Medicaid/Medical Charities of $4,000,000 and (2) restores $722.0 in Council cuts and $278.0 in additional funding for the Income Maintenance operation.

The increased funds of $4,000.0 will enable the Medicaid/Medical Charities program to settle on cost settlement claims from area hospitals and D.C. General Hospital.

The Income Maintenance Administration will use the additional funds of $1,000.0 to assist its efforts in implementing the Welfare Reform Act.

The breakdown of the $5,000.0 is as follows:

a. Medicaid and Medical Charities (MM)	
Subsidies and Transfers (50)	$4,000.0
b. Income Maintenance (YS)	
Personal Services (11)	625.0
Fringe Benefits (14)	75.0
Other Services and Charges (40)	300.0
Total	$5,000.0

III. Infrastructure

SENATOR ADAMS:
1. Last summer the Federal City Council issued an update of a study that they had done in 1980 on infrastructure spending in the District of Columbia. The Council found that while great strides have been made in the road resurfacing and rebuilding program backlogs continue to exist, and will continue throughout the decade of the 90's.

Where does infrastructure capital spending in general, and road work in particular, fall in the City's priorities for future capital expenditures?

MAYOR BARRY:
1. Overall, the District gives very high priority to maintaining expenditures for transportation infrastructure rehabilitation needs. In terms of transportation investment priorities, capital spending for the roadway rehabilitation program ranks second behind the rehabilitation needs of bridge structures throughout the District of Columbia.

However, the District's road rehabilitation program is severely constrained by limited Federal aid Urban and Primary System apportionments. Under the current Surface Transportation Act, there is insufficient Federal aid to meet the escalating backlog of highway and bridge infrastructure rehabilitation needs of the District of Columbia.

In the capital improvements program, infrastructure is one of our highest priorities. In fiscal year 1991, the District is requesting $79,885,000 in appropriated funds and $53,882,000 in anticipated grants for infrastructure improvements. The six-year capital improvements plan for FY 1991-1996 includes $654,912,000 in appropriated funds for this category. Grant participation over the six-year period is expected to be $865,405,000. This program comprises 54 percent of total planned spending.

In the bond resolution recently submitted to the Council of the District of Columbia for proposed fiscal year 1991 borrowing more than $75 million is being requested for infrastructure improvements, or 27 percent of total borrowing.

SENATOR ADAMS:
2. In reviewing the District's capital budget many items that are included in the capital budget appear to belong more appropriately in the operating budget. For instance, the Department of Public Works is proposing to borrow $1 million in 1991 to install a computer assisted design network. What is the life-cycle of such a network, shouldn't this be included in the operating budget?

MAYOR BARRY:
2. The useful life of a computer-assisted design network is expected to be about 10 years. While this kind of item could of course be purchased from either current revenue or from borrowed funds, it qualifies for the capital program because of its relatively long life and because of the essential role we expect such applications to have in the implementation of the capital program.

IV. Uncompensated Trauma Care

SENATOR ADAMS:
1. As you both know there is a growing problem at local trauma centers concerning uncompensated care. Mr. Clarke you recently wrote to the Committee on this subject. Are there any proposals either within the administration or in the legislative area that address the problem of health care benefits for the uninsured, specifically for trauma care?

MAYOR BARRY:
1. With respect to trauma care, in January, I approved a special rate for Medical Charities patients who are admitted to a hospital with a trauma diagnosis. The new rate for these patients is $1,100. per day; the prior rate was $112. per day. The D.C. Medical Charities Program is funded with 100% local taxes, and is intended to help meet the cost of hospital care for medically indigent, temporarily disabled persons. A number of trauma patients have low incomes, but are not permanently disabled, and therefore do not qualify for the Medicaid program. To support this higher trauma rate, I increased the fiscal

1991 Medical Charities budget by $1 million--a request I hope this Committee will support.

The problem of meeting the cost of charity care patients is not, of course, confined to trauma victims. District hospitals care for many persons - undocumented aliens, part-time employees, the homeless - who do not qualify for one of the public insurance programs and who cannot pay. The D.C. City Council has held public hearings on two bills that address this broader problem. I support the principle of assuring access to appropriate health care for all of our residents. We will continue to work toward that goal, as funding permits.

VI. Revenues

SENATOR ADAMS:

1. Given that revenues are rising at a declining rate, have you changed your local revenue estimates for 1991?

MAYOR BARRY:

1. The FY 1991 revenue estimates in the Operating Budget reflect both the economic outlook for the District of Columbia and the near term historical trend in District of Columbia revenue collections. Special attention was paid to the FY 1989 actual collections and the FY 1990 cash collections for the first several months of the fiscal year in the determination of the FY 1991 revenue estimates. The FY 1991 revenue estimates are not scheduled to be changed unless it is necessary in the FY 1992 budget process.

COUNCIL OF THE DISTRICT OF COLUMBIA

STATEMENT OF HON. DAVID A. CLARKE, CHAIRMAN

SUMMARY STATEMENT

Senator **ADAMS**. Mr. Clarke, I would be pleased to hear from you, chairman of the City Council.

Mr. **CLARKE**. Thank you very much, Mr. Chairman.

I appreciate the opportunity to appear before you on behalf of the legislative branch of the D.C. government to testify with respect to the fiscal year 1991 budget request as enacted by the council on March 20, 1990, and subsequently signed by the Mayor without the exercise of any line item differing.

The budget that was enacted by the council reflects the product of an intense and comprehensive review. Many hearings were held. The standing committees carefully reviewed the budget request and made surgical and tactical changes which were carefully thought out. Many of these changes were the result of the council's analysis of past spending patterns and other supportive documentation.

PREPARED STATEMENT

We present a balanced budget. Speaking on behalf of the council, I am proud to present this budget to you. I have brought with me the report of the council's standing committees as well as the final committee report on the budget and I would ask that they be made a part of the record.

Senator **ADAMS**. Without objection, those along with your statement will become part of the record of the committee.

[The information follows:]

STATEMENT OF DAVID A. CLARKE

MR. CHAIRMAN, AND OTHER DISTINGUISHED MEMBERS OF THIS SUBCOMMITTEE, I AM DAVID A. CLARKE, CHAIRMAN OF THE COUNCIL OF THE DISTRICT OF COLUMBIA. IT IS WITH GREAT PLEASURE THAT I APPEAR BEFORE YOU ON BEHALF OF THE COUNCIL TO TESTIFY ON THE DISTRICT OF COLUMBIA'S FISCAL YEAR 1991 BUDGET REQUEST AS ENACTED BY THE COUNCIL ON MARCH 20, 1990 AND SUBSEQUENTLY SIGNED BY THE MAYOR.

THE BUDGET THAT WAS ENACTED BY THE COUNCIL REFLECTS THE PRODUCT OF AN INTENSE AND COMPREHENSIVE REVIEW. MANY HEARINGS WERE HELD DURING THE BUDGET REVIEW PROCESS. THE COUNCIL'S STANDING COMMITTEES CAREFULLY REVIEWED THE BUDGET REQUESTS OF THE AGENCIES UNDER THEIR PURVIEW, AND MADE SURGICAL AND TACTICAL CHANGES, WHICH WERE CAREFULLY THOUGHT OUT. MANY OF THESE CHANGES WERE THE RESULT OF THE COUNCIL'S ANALYSIS OF PAST SPENDING PATTERNS AND OTHER SUPPORTIVE DOCUMENTATION. LONG HOURS WERE PUT INTO THE BUDGET REVIEW PROCESS, IN ORDER THAT, IN THE FINAL ANALYSIS, WE COULD PRESENT A BALANCED BUDGET. SPEAKING ON BEHALF OF THE COUNCIL, I AM PROUD TO PRESENT THE FISCAL YEAR 1991 BUDGET, TO THIS SUBCOMMITTEE.

I HAVE BROUGHT WITH ME THE REPORTS OF THE COUNCIL'S STANDING COMMITTEES AS WELL AS THE FINAL REPORT ON THE BUDGET AND I WOULD ASK THAT THEY BE MADE A PART OF THE RECORD.

THE FISCAL YEAR 1991 BUDGET, ENACTED BY THE COUNCIL TOTALS ALMOST $3.5 BILLION IN BUDGET AUTHORITY. A TOTAL OF $3.2 BILLION IS ALLOCATED TO THE DISTRICT'S GENERAL FUND, $28.7 MILLION TO CAPITAL OUTLAY WITHIN THE GENERAL FUND, AND $254.9 MILLION TO THE WATER AND SEWER ENTERPRISE FUND FOR OPERATIONS AND CAPITAL CONSTRUCTION. THE COUNCIL ALSO ALLOCATED $8.6 MILLION TO THE

LOTTERY AND CHARITABLE GAMES CONTROL BOARD FOR ITS OPERATING NEEDS.

THE ORIGINAL BUDGET PROPOSED TO THE COUNCIL BY THE MAYOR PROPOSED AN INCREASE IN TAXES TO BE ACHIEVED BY THE IMPLEMENTATION OF THE FOLLOWING TAX PACKAGE:

1. AN INCREASE OF THE TOP RATE OF INCOME TAXATION (FROM 9.5% TO 10.5%)
2. A 9% TAX ON CANDY
3. A TAX ON THE PERSONAL PROPERTY OF UTILITY COMPANIES
4. A 5% TAX ON SELECTED PROFESSIONAL SERVICES

THE COUNCIL REJECTED THE PROPOSAL FOR NEW TAXES AND ALSO CHOSE TO REDUCE HOMEOWNER PROPERTY TAXES. THE COUNCIL'S ACTIONS ON THE FISCAL YEAR 1991 BUDGET INCLUDED:

1. A REDUCTION OF $50.9 MILLION TO THE PROPERTY TAX REVENUE ESTIMATE TO PROVIDE TAX RELIEF TO CLASS ONE (HOMEOWNERS) PROPERTY TAX PAYERS. AT THE TIME OF FINAL BUDGET ACTION THE COUNCIL INTENDED TO VOTE THE CALCULATED RATE FOR CLASS ONE PROPERTY (99 CENTS) AND DOUBLE THE HOMESTEAD EXEMPTION. HOWEVER, SINCE THEN THE COUNCIL HAS OPTED TO INCREASE THE HOMESTEAD BY A SMALLER AMOUNT AND WILL DETERMINE THE FINAL RATE IN JUNE OF THIS YEAR.
2. SAVINGS OF $10 MILLION IN ENERGY, EQUIPMENT AND SUPPLIES TO BE ACHIEVED BY PURCHASING FROM THE COOPERATIVE PURCHASING PROGRAM.

3. AN OVERALL REDUCTION OF THE PROPOSED AGENCY EXPENDITURES OF $111.7 MILLION.

THE COUNCIL HAS AMENDED THE MAYOR'S PROPOSAL TO PROVIDE FOR A REPAYMENT OF A PORTION OF THE GENERAL FUND DEFICIT. IN THE FISCAL YEAR 1991, $1.7 MILLION WAS ALLOCATED TOWARD REPAYMENT OF THE GENERAL FUND DEFICIT AND WHILE A SMALL SUM IT REPRESENTS OUR ONGOING COMMITTMENT TO TRY AND ELIMINATE OUR OUTSTANDING DEFICIT.

AT THIS POINT IN TIME I THOUGHT THAT IT WOULD BE MOST APPROPRIATE TO HIGHLIGHT THE ACTIONS TAKEN BY THE COUNCIL AND THE MAYOR IN THE BUDGET FOR FISCAL YEAR 1991 TO ERADICATE THE DISTRICT'S DRUG PROBLEM.

THE COUNCIL APPROVED THE MAYORAL PROPOSAL FOR THE METROPOLITAN POLICE DEPARTMENT'S $257.2 MILLION BUDGET. THIS BUILDS UPON THE FISCAL YEAR 1990 BUDGET OF $245 MILLION AND THUS ALLOWS FOR AN INCREASE OF $12.2 MILLION IN A YEAR IN WHICH NO PAY RAISE IS BUDGETED BECAUSE COLLECTIVE BARGAINING IS STILL PENDING.

IT SHOULD ALSO BE NOTED THAT THE FISCAL YEAR 1990 BUDGET IS $29.2 MILLION MORE THAN THE MAYOR ASKED FOR IN HIS ORIGINAL FISCAL YEAR 1990 REQUEST. THE COUNCIL CHOSE TO INCREASE THE POLICE BUDGET BY $14.6 MILLION TO ALLOW FOR THE HIRING OF 300 NEW POLICE OFFICERS. AS YOU KNOW, THE CONGRESS THEN CHOSE TO ALLOCATED AN ADDITIONAL $16.7 MILLION TO PROVIDE 9 MONTH FUNNDING FOR AN ADDITIONAL 700 OFFICERS.

THE COUNCIL ALSO GAVE A SERIES OF DIRECTIONS TO ENHANCE PUBLIC SAFETY THROUGH THE FOLLOWING CHANGES:

1. THE COUNCIL DIRECTED THE SPECIAL OPERATIONS DIVISION TO RELOCATE TO MISSISSIPPI AVENUE TO ALLOW FOR EASIER DEPLOYMENT TO DISTRICTS 5, 6 AND 7 WHICH FACE THE HIGHEST LEVELS OF DRUG-RELATED VIOLENT CRIME.
2. THE COUNCIL DIRECTED THE DEPARTMENT TO PLACE THE 1991 FEDERAL APPROPRIATION FOR 700 OFFICERS INTO A NEW CONTROL CENTER, "FEDERALLY FUNDED DRUG EMERGENCY OFFICERS" SO THAT THE FUNDING CAN MORE EASILY BE ACCOUNTED FOR BY THE DEPARTMENT AND TRACKED BY THE COUNCIL.

THE COUNCIL REVIEWED THE DEPARTMENT OF CORRECTIONS' BUDGET AND REDUCED THE CONTRACTS LINE TO REFLECT A BELIEF THAT MEDICAL SERVICES SHOULD BE PROVIDED IN-HOUSE BY DISTRICT EMPLOYEES AS OPPOSED TO CONTRACTING OUT THIS SERVICE. $1 MILLION OF THE SAVINGS FROM PROVIDING IN-HOUSE MEDICAL SERVICES WERE DIRECTED TO FUND A DRUG PROGRAM AND AN EDUCATIONAL AND TRAINING PROGRAM AT THE LORTON FACILITY.

THE COUNCIL PROVIDED AN INCREASE OVER AND ABOVE THE MAYOR'S PROPOSAL FOR THE D.C. COURT OF APPEALS ($149,000), D.C. SUPERIOR COURT ($1,143,000) AND THE D.C. COURT SYSTEM ($133,000) TO ADDRESS THEIR INCREASING WORKLOADS.

THE COUNCIL ALSO INCREASED THE BUDGET FOR THE ALCOHOL AND DRUG ABUSE ADMINISTRATION (ADASA) BY $1.9 MILLION. THE TOTAL BUDGET FOR ADASA IS APPROXIMATELY $34 MILLION FOR FISCAL YEAR 1991. THE COUNCIL DIRECTED ADASA TO SPEND $617,000 OF THIS INCREASE FOR

DRUG PREVENTION AND EDUCATION AND INFORMATION PROGRAMS, WITH EMPHASIS ON GROUPS EAST OF THE RIVER AND TO SPEND $1.8 MILLION TO PROVIDE EXPANDED DRUG TREATMENT SERVICES. THE COUNCIL ALSO DIRECTED ADASA TO SPEND $500,000 FOR SUBSTANCE ABUSE DETOXIFICATION TREATMENT SERVICES IN D.C. GENERAL HOSPITAL AND $1,083,000 IN CONTRACTS TO COMMUNITY BASED THERAPEUTIC ABSTINENCE RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAMS.

IN ADDITION, THE COUNCIL INCREASED THE MAYOR'S BUDGET FOR THE PUBLIC SPACE MAINTENANCE ADMINISTRATION BY $2,050,000 FOR PROGRAM INCREASES TARGETED TO MAINTAINING THE DISTRICT'S ROADWAYS, SIDEWALKS, ALLEYS, TREES AND PARKS. THE TOTAL BUDGET FOR PUBLIC SPACE MAINTENACE FOR FISCAL YEAR 1991 IS $46.9 MILLION.

I WOULD LIKE TO NOW DISCUSS TWO INTERRELATED ISSUES: THE BUDGET FOR THE PUBLIC SCHOOLS AND THE FEDERAL PAYMENT.

IN CONSIDERING THE BUDGET REQUEST OF THE PUBLIC SCHOOLS, THE COUNCIL PAID GREAT ATTENTION TO THE REPORT OF THE COMMITTEE ON PUBLIC EDUCATION ("COPE"). COPE, AS I AM SURE YOU KNOW, IS A SPECIAL COMMITTEE COMMISSIONED IN EARLY SEPTEMBER, 1989, BY THE SUPERINTENDENT OF THE DC PUBLIC SCHOOLS TO CONDUCT A BROAD EXAMINATION OF THE PUBLIC SCHOOL SYSTEM AND, BASED ON ITS FINDINGS, TO DEVELOP A LONG-RANGE PLAN TO IMPROVE THE QUALITY OF EDUCATION PROVIDED FOR THE CHILDREN IN THE DISTRICT. COPE IS MADE UP OF 64 INDIVIDUALS REPRESENTING A BROAD SPECTRUM OF INTERESTS: THE BUSINESS COMMUNITY, UNIVERSITIES, CHURCHES, PARENTS AND NATIONALLY RECOGNIZED EXPERTS IN EDUCATION

IN JUNE OF 1989, COPE ISSUED A REPORT WHICH LAID A 5 YEAR PLAN RECOMMENDING $515 MILLION IN NEW EXPENDITURES.

IN DISCUSSING ITS PLANS, COPE RECOMMENDED THAT D.C. GOVERNMENT AND FEDERAL GOVERNMENT FINANCE THE IMPROVEMENTS, 50-50, AND THAT THE PRIVATE SECTOR BE INVOLVED.

FOR FISCAL YEAR 1991, COPE ENDORSED THE SCHOOL BOARD'S REQUEST FOR AN INCREASE OF $100 MILLION. THE BUDGET APPROVED BY THE COUNCIL AND SIGNED BY THE MAYOR APPROVED WHAT THE BOARD ASKED FOR WITH THE FOLLOWING EXCEPTIONS:

- $16.9 MILLION WAS DENIED TO CORRESPOND TO THE SCHOOL BOARD'S REESTIMATION OF THE ENROLLMENT. WHILE THE BUDGET REQUEST WAS PENDING BEFORE THE COUNCIL, THE SCHOOL BOARD LOWERED ITS ENROLLMENT ESTIMATE FROM 89,000 TO 81,000. THE $16.9 MILLION CHANGE WAS THE PRODUCT OF DISCUSSIONS OF REPRESENTATIVES OF THE SCHOOL BOARD AND THE COUNCIL'S COMMITTEE OF EDUCATION AND LIBRARIES.

- THE FINANCING FOR $10 MILLION (HALF OF THE REQUESTED $20 MILLION) FOR SCHOOL IMPROVEMENTS WAS SHIFTED FROM A PAY-AS-YOU-GO TRANSFER TO THE TRADITIONAL METHOD OF FINANCING CAPITAL PROJECTS, LONG TERM BONDS. THE ENTIRE $20 MILLION IN EXPENDITURES WAS APPROVED AS ONLY THE METHOD OF FINANCING WAS ALTERED.

- FUNDING OF $36.4 MILLION FOR PAY RAISES WAS DEFERRED. THE COUNCIL CHOSE TO DEFER FUNDING OF PAY RAISES UNTIL THEY ARE NEGOTIATED AND COMMITTED TO FUNDING THEM IN A FISCAL YEAR 1991 SUPPLEMENTAL BUDGET. THE BUDGET REQUEST ACT PASSED BY THE COUNCIL AND SIGNED BY THE MAYOR COMMITS ANY INCREASE IN THE FEDERAL PAYMENT ABOVE $430.5 MILLION, UP TO $36.4 MILLION, TO PUBLIC SCHOOL PAY RAISES.

THEREFORE, CONSISTENT WITH COPE'S RECOMMENDATIONS; THE COUNCIL IS ASKING THE CONGRESS TO INCREASE THE FEDERAL PAYMENT TO THE CITY FOR FISCAL YEAR 1991 BY AT LEAST $36.4 MILLION.

COPE REACHED THE CONCLUSION THAT THERE IS A NEED FOR AN INCREASE IN THE FEDERAL PAYMENT AND THUS RECOGNIZED WHAT THE DISTRICT HAS BEEN ARGUING FOR SOME TIME NAMELY THAT, UNLESS THERE IS A PREDICTABLE, RELIABLE, FORMULA BASED FEDERAL PAYMENT, WHICH INCREASES OVER TIME, THE GOVERNMENT OF THE DISTRICT OF COLUMBIA WILL NEVER BE ABLE TO BECOME TRULY RESPONSIBLE FOR THE MANAGEMENT OF ITS OWN FISCAL AFFAIRS. COPE REALIZED THAT IT WOULD HAVE BEEN IRRESPONSIBLE TO SIMPLY DIRECT THE GOVERNMENT TO INCREASE SPENDING WITHOUT RECOGNIZING THE NEED FOR A PREDICTABLE, GROWING FEDERAL PAYMENT.

PREDICTABILITY IS NO LONGER AN ISSUE. IT IS HAS BECOME PREDICTABLE -- IT IS THE SAME AMOUNT AS THE YEAR BEFORE WITH NO SIGN OF GROWTH.

I WISH TO MAKE IT CLEAR THAT I AM COGNIZANT OF THE FACT THAT THE CITY BENEFITS FROM THE FEDERAL PRESENCE. THE FEDERAL

GOVERNMENT PROVIDES JOBS FOR OUR CITIZENS, DIRECTLY AND INDIRECTLY, THROUGH TOURISM, CONVENTIONS AND OTHER ATTRACTIONS OF THE NATION'S CAPITAL. ALSO, TO A LARGE EXTENT THE CULTURAL LIFE OF OUR CITY IS GREATLY ENHANCED AS A RESULT OF THE FEDERAL PRESENCE.

BUT THE FEDERAL PAYMENT IS NOT GROWING WITH OUR GREAT CITY, AND INDEED, ITS STAGNATION IS ENDANGERING OUR FINANCIAL HEALTH.

THE FEDERAL PAYMENT IS NOT A SUBSIDY OF THE DISTRICT GOVERNMENT OR A PRESENT FROM THE FEDERAL GOVERNMENT. INSTEAD THE PAYMENT IS COMPENSATION TO THE DISTRICT FOR THE EXTRAORDINARY IMPACT OF THE FEDERAL PRESENCE. THE LEGITIMACY OF THE FEDERAL OBLIGATION TO THE DISTRICT HAS BEEN LONG ACCEPTED BUT THE DISTRICT AND THE FEDERAL GOVERNMENT HAVE FAILED TO REACH A MUTUALLY ACCEPTABLE METHOD TO DETERMINE THE DOLLAR AMOUNT OF THAT OBLIGATION.

THE FEDERAL GOVERNMENT DOES NOT PAY TAXES TO THE DISTRICT BUT SOME 44% OF ALL REAL PROPERTY IS TAX EXEMPT AS A RESULT OF THE FEDERAL PRESENCE EITHER BECAUSE IT BELONGS TO THE FEDERAL GOVERNMENT OR BECAUSE IT BELONGS TO FOREIGN GOVERNMENTS OR OTHER ORGANIZATIONS EXEMPTED BY ACTS OF CONGRESS. AT THE SAME TIME ALL OF THESE INSTITUTIONS RELY ON SERVICES PROVIDED BY THE DISTRICT GOVERNMENT.

IN ALL, WHEN MEASURED AS A PERCENTAGE OF THE REVENUES IT WOULD PRODUCE IF IT WERE A TAXPAYING COMMERCIAL ENTERPRISE AND UNABLE TO INTERFERE IN THE DISTRICT'S TAX POLICY, THE FEDERAL GOVERNMENT PLACES ON THE SHOULDERS OF OTHERS ITS FAIR SHARE OF THE CITY'S TAX BURDEN. AS OF SEPTEMBER, 1989, THE FEDERAL

GOVERNMENT WAS PAYING ONLY 24% OF WHAT IT WOULD PAY IF IT WERE A TAXPAYER.

THE CURRENT SYSTEM FOR PROVIDING A FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA GOVERNMENT IS NOT WORKING. THE PAYMENT IS NOT LARGE ENOUGH AND IT IS NOT KEEPING PACE WITH THE GROWING RESPONSIBILITIES OF THE DISTRICT GOVERNMENT.

THE INADEQUACY OF THE FEDERAL PAYMENT IS SLOWLY STRANGLING THE DISTRICT. FIRST, THE FAILURE OF THE FEDERAL PAYMENT TO GROW IS DENYING THE CITY A NATURAL INCREASE IN REVENUES NEEDED TO FINANCE THE NATURAL INCREASE IN THE COSTS OF PROGRAMS. THE PROBLEM THEN IS COMPOUNDED AS THE DISTRICT TURNS TO ITS CITIZENS AND ITS BUSINESS COMMUNITY FOR INCREASED TAXES CREATING A DISINCENTIVE TO LIVE AND WORK HERE. THE STAGNANT FEDERAL PAYMENT THUS ARTIFICIALLY CONSTRAINS THE GROWTH OF THE DISTRICT'S TAX BASE.

IN FISCAL YEAR 1985 THE FEDERAL PAYMENT WAS $425 MILLION. SINCE FISCAL YEAR 1985 THE FEDERAL PAYMENT HAS GROWN BY JUST 1.3%. IN FISCAL YEAR 1991 THE FEDERAL PAYMENT IS $430.5 MILLION AND THUS IS JUST $5.5 MILLION GREATER THAN SIX YEARS AGO. IN FACT, THE FEDERAL PAYMENT IS ACTUALLY LOWER THAN IT WAS IN FISCAL YEAR 1986 WHEN IT WAS $444.5 MILLION OR $14 MILLION GREATER THAN THE CURRENT PAYMENT.

OVER THE SAME PERIOD THAT THE FEDERAL PAYMENT WAS BASICALLY FLAT THE DISTRICT'S PRIMARY REVENUE SOURCES HAVE HAD TO MAKE UP THE DIFFERENCE:

TAX SOURCE	F.Y. 1985	F.Y. 1990	INCREASE (%)
PERSONAL INCOME TAX $267.3(64%)		$417.5	$684.8
BUSINESS INCOME TAX	$105.0	$163.5	$58.5(56%)
PROPERTY TAX	$407.3	753.9	$240.1(85%)
SALES TAX	$331.7	$502.0	$170.3(51%)
TOTAL	$1,261.5	$2,104.2	$842.7(67%)

IF THESE REVENUE SOURCES HAD GROWN AT JUST THE 1.3% RATE OF INCREASE THAT THE FEDERAL PAYMENT HAS GROWN THE DISTRICT WOULD HAVE $826 MILLION LESS IN FISCAL YEAR 1991 -- AN AMOUNT ALMOST EQUAL TO THE COMBINED BUDGET FOR THE PUBLIC SCHOOLS AND THE POLICE DEPARTMENT.

CONVERSELY, IF THE FEDERAL PAYMENT HAD GROWN AT THE RATE AT WHICH THESE MAJOR REVENUE SOURCES HAVE GROWN IT WOULD BE $709 MILLION IN FISCAL YEAR 1991 OR $278.5 MILLION GREATER THAN THE CURRENT APPROPRIATION. EVEN THEN THE FEDERAL PAYMENT WOULD BE ONLY 45% OF WHAT IT WOULD BE IF THE FEDERAL GOVERNMENT WERE A CORPORATE PAYING TAXPAYER.

BY THE SAME TOKEN IF THE FEDERAL PAYMENT HAD REMAINED EQUAL TO THE SAME SHARE OF THE BUDGET IT HAD BEEN IN FY85 IT WOULD BE $651.5 MILLION IN FY91 AND OVER THE SIX YEAR PERIOD THE DISTRICT WOULD HAVE RECEIVED AN ADDITIONAL $725.6 MILLION IN REVENUE

IT IS WITHIN THE CONTEXT OF THESE LARGE NUMBERS THAT WE ASK THAT YOU GIVE SERIOUS CONSIDERATION TO OUR REQUEST FOR AT LEAST AN ADDITIONAL $36.4 MILLION.

COPE'S REPORT INDICATED THAT APPROXIMATELY THIS AMOUNT WOULD BE NEEDED TO PERMIT THE DISTRICT'S EDUCATIONAL SALARIES TO BE COMPARABLE TO THE SURROUNDING JURISDICTIONS. BY COMPARABLE IT IS MEANT TO BE COMPETITIVE WITH OUR NEIGHBORS SO THAT THE CHILDREN OF THE DISTRICT OF COLUMBIA WILL HAVE A CHANCE TO BE EDUCATED BY THE BEST TEACHERS AND THAT WE REWARD OUR CURRENT TEACHERS FOR THE DIFFICULT JOB THEY HAVE UNDERTAKEN.

THUS THE ISSUE OF COMPARABILITY OF TEACHER SALARIES CAN BE SEEN BY COMPARING HOW MUCH TEACHERS MAKE IN COMPARISON TO THE TEACHERS IN SURROUNDING JURISDICTIONS AND COMPARABLE URBAN DISTRICTS THROUGHOUT THE COUNTRY. COPE HAS ESTIMATED THAT STARTING SALARIES IN THE DISTRICT TRAIL SURROUNDING JURISDICTIONS BY 7% AND MAXIMUM SALARIES TRAIL BY 8%.

AS I HAVE NOTED, THE COPE REPORT SUGGESTED THAT 50% OF THE INCREASE TO THE SCHOOL SYSTEM BE FINANCED THROUGH AN INCREASE TO THE FEDERAL PAYMENT. THE DISTRICT HAS INCREASED THE BUDGET OF THE SCHOOLS BY $43 MILLION OVER FISCAL YEAR 1990. $34.3 MILLION OF THIS INCREASE WAS TO THE OPERATING BUDGET OF THE SCHOOLS AND AN ADDITIONAL $10 MILLION WILL BE PROVIDED THROUGH CAPITAL FUNDS FOR LONGTERM REPAIRS TO SCHOOLS. IF THE FEDERAL PAYMENT WERE TO BE INCREASED BY $36.4 MILLION AND THE FULL AMOUNT ALLOCATED TO THE SCHOOLS THEN THE BUDGET WOULD BE INCREASED BY $79.4 MILLION OR 16%.

AS WE APPROACH ANOTHER YEAR IN WHICH CONGRESS REVIEW'S THE DISTRICT'S BUDGET, I, ALONG WITH OTHER MEMBERS OF THE COUNCIL, LOOK FORWARD TO WORKING WITH YOU. THE COUNCIL'S BUDGET STAFF WILL BE DELIGHTED TO PROVIDE YOU WITH ANY ADDITIONAL INFORMATION THAT YOU MAY NEED. AS A RESULT OF THE TEAMWORK THAT IS TO BE

DISPLAYED BY CONGRESS, THE MAYOR, AND THE COUNCIL, I AM CERTAIN THAT THERE IS NO ISSUE THAT CANNOT BE RESOLVED AND NO COMPROMISE THAT CANNOT BE REACHED, IN ORDER TO PRODUCE A PRODUCT THAT WE ALL CAN BE PLEASED WITH...A PRODUCT THAT WE ALL CAN BE PROUD OF...A PRODUCT THAT MEETS THE OVERALL NEEDS OF THE CITIZENRY.

THIS CONCLUDES MY TESTIMONY, MR. CHAIRMAN. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

COUNCIL'S AMENDMENT TO MAYOR'S BUDGET

Mr. Clarke. Thank you very much.

The original budget proposed to the council by the Mayor proposed an increase in taxes to be achieved by the implementation of the following tax package: an increase in the top rate of income taxation from 9½ percent to 10½ percent; a 9 percent tax on candy; a tax on the personal property of utility companies; and a 5 percent tax on selected professional services, as well as keeping the same rate on the growing property tax base.

Now I come here as part of a unified government or I seek to. I do note, however, the Mayor indicated some problem with the fact that we did reject those taxes and indicated that possibly that was the source of the Standard & Poors' reduction in our rating.

I would say that there has been some disagreement between the executive on the need for those taxes as well as on the statement in his testimony that the city government has too few workers. The council does believe that the government is too large and we were trying in this effort to provide some direction to spending controls, recognizing that the Standard & Poors' grading is a product of both spending and revenues.

The council has amended the Mayor's proposal in a number of ways; a savings of $10 million in energy, equipment, and supplies; a reduction to identified agency expenditures of $111.7 million.

The council has amended the Mayor's proposal to provide for a repayment of a portion of the general fund deficit. In most of the past years, the council has taken the leadership with respect to that and again for fiscal year 1991 we are taking the leadership in trying to provide some budget in that regard.

The council approved the mayoral proposal for the police department's $257.2 million budget. This builds upon the fiscal year 1990 budget of $245 million and thus allows for a $12.2 million increase in a year in which no pay raise is budgeted at this time because collective bargaining is still pending.

It should also be noted that the fiscal year 1990 budget is $29.2 million more than the Mayor asked for in his original fiscal year 1990 request. The council chose to increase the police budget by $14.6 million to allow for the hiring of 300 new police officers. As you know, the Congress then chose to allocate an additional $16.7 million to provide 9 months funding for additional 700 officers.

COUNCIL'S CHANGES TO THE PUBLIC SAFETY BUDGET

To respond to Senator Gramm's earlier concern, that is 18 percent in fiscal year 1990 over fiscal year 1989. The council also gave a series of directions to enhance public safety through the following changes: The council directed the special operations division to relocate to Mississippi Avenue to allow easier deployment to those police districts, districts 5, 6, and 7, which face the highest levels of drug-related violent crime.

The council directed the department to place the fiscal year 1991 Federal appropriation for 700 officers into a new control center, federally funded drug emergency officers so that the funding can be more easily accounted for by the department and tracked by the council, as well as the Congress.

REPROGRAMMING OF DRUG EMERGENCY FUNDS

Now you asked for us to address the issue of the reprogramming. It is not in my prepared testimony. Let me just point out a couple of things. No. 1 is that under the charter and the reprogramming laws, the council cannot reprogram ab initio. We can react to an executive branch submission that is submitted to us.

The council has held long hearings on this issue, just yesterday, as a matter of fact, and the chairperson of the committee on judiciary is here, Mrs. Wilhelmina Rolark from ward 8. She is here and available to answer any questions you might want to ask. We went into the issue.

We share your consternation that no request was forthcoming as to any change that might be needed. In the course of our hearing we examined the financial management system report as of April 31, 1990. That is through 7 months. We found then that there was great underspending in the continuing full-time category in which the money was placed for the full-time new officers. As you can see, and I have submitted this for the record, that it is less than 50 percent of what was budgeted, meaning there was underspending for 7 months.

The police department was reported in the financial management system to be overspending object class 13, which includes overtime, but factored out. In other words, if you take their spending, divide it by the 7 months for which it reflects, multiply it by 12, it shows that in the personnel budget the police department extended out in current rates would spend $196,800,000 or less than its budget of $203,700,000 that excludes the Federal money. If you added the Federal money in there, that would be $220 million.

So that information which we do and can monitor coming through the system as of the end of April did not indicate any problem. No reprogramming did come forward, but the council certainly is willing to work with our executive branch to resolve any problems.

POLICE SPENDING REFLECTED IN THE FMS SYSTEM

Senator **Adams**. Are you saying, Mr. Clarke, that the total amount budgeted for the police department, leaving aside the Federal funds that were added in for the addition of officers and so on under the drug program by this committee and later by the full Congress, that leaving that aside that the police department would not spend—it would only spend $196.8 million and that you have budgeted without Federal funds $206.8 million and that you took $3.1 million out so that you had $203 million. So you would have covered all expenses, including the overtime.

Mr. **Clarke**. The left hand column shows the personal services budget. This does not include the other than personal services departmental budget. This is the personal services budget of the department. That shows the budget in the financial management system, operated by the city, for fiscal year 1990. That budget was $182,700,000, including the Federal money, for the full-time pay; $3.4 million for temporary pay; $24.6 million for additional gross pay, which included overtime and other things as well; and $12.8 million for fringe benefits. You take out the Federal money, you have got $206.8 million. You take out the $3.1 million that the council reduced to reflect the nonhiring of persons in the continuing full time, you have got $203.7 million.

On the spending side for 7 months, you can see that in the personal services area the police department was reported in the financial management system as having spent $114.9 million over a 7-month period. You divide that by 7 and multiply it by 12, it is $196.8 million. That is the financial management system.

I am not saying necessarily by presenting that to you that there is not a problem. I am saying this to say that the financial management system was not reporting a problem. A monitoring of this at the end of the seventh month of spending was not showing the problem. I am trying to say that the council would have been willing, as were you, to consider a reprogramming reflecting anything different than what the financial management system reports is there.

Senator **Adams**. Well, what I would request is that the council make its submission and I have part of it in writing here. So I am able to follow the figures that you have, which indicates a spend out rate less than what you have budgeted and I would request that the Mayor's office or whoever is in charge of that division submit also in writing to the committee so I can have the staff examine what is occurring. We have either got a shortage of money or we do not have a shortage of money, or money is not being released at the rate that it should be.

All I know is what the public is hearing and what I am hearing, which is that we do not have enough money to pay out and you have got a responsibility and I have got a responsibility between the two of us in the legislative branch, at least, to submit enough resources.

Now if they are being improperly used by the administrative part of the government and so on, I have been a U.S. attorney. I have been in both the administrative side of the government as well as in the legislative side. I just know that I have to have an explanation on how much money is there, because I am hearing from the administrative side they do not have it and I have got to figure out where the gap is. If you cannot give it to me and explain it to me between the two of you in a submission, I will have my staff do it.

Mr. CLARKE. Senator, I want to be very clear now that the reason for my presentation of this in the record is that in terms of what was known to the council at the end of April, there did not appear to be a problem.

Now in the course of the testimony provided to the council's committee on the judiciary yesterday, it was indicated that there were some—I think the Chief called them unfinanced liabilities that did need to be paid for in fiscal year 1990 that are not in the budget and that went beyond what is in the budget. So some of this money is planned to be spent for that. I am not saying that those unfinanced liabilities are not real and nor am I saying that they are not necessary.

I am saying only at this point that the information that was available as of the end of April did not reflect any need, nor was there transmitted to the City Council any reprogramming request. Also the council is unable to effect a reprogramming without such a request being transmitted to it. That is the purpose for my presentation of this information.

Senator ADAMS. I understand and I want that, as I say, placed in writing in a current form so that my staff can examine it.

We will have another hearing on this so you will have an opportunity to present it orally, if you wish, as well as in written form, but we have to have an examination of this to see where the money either went or whether it has been unspent or where it is.

I appreciate the figures that you have given to me, but it does not seem to me like in the month of May we could have had a $13 million shortfall that cut off patrols in various parts of the city.

INCREASES ADDED BY THE COUNCIL

Mr. CLARKE. Thank you, sir.

Let me, if I may, proceed. the council provided an increase over and above the Mayor's proposal for the D.C. Court of Appeals, the Superior Court, and the court system to address their continuing workloads. We also increased the Mayor's budget for the Public Space Maintenance Administration by $2,050,000 for program increases targeted to maintaining the District's roadways, sidewalks, alleys, trees, and parks.

We also increased the budget for drug treatment and prevention by $1.9 million. This has been a continuing priority of the council.

SUFFICIENT INCREASES FOR THE COURTS AND THE U.S. ATTORNEY'S OFFICE

Senator ADAMS. I have not gone into this with either of you, but I want you to be aware of it because I will go into it with other officials, that I find it incredible as a former U.S. attorney that statements were made that there was not sufficient court people, as you have talked here, and I say court people in that I cover a series of people, to even keep the murder 1 calendar current and the judge released one person. I understand he was already being held for other crimes. So he did not immediately go on the streets, but that he had been delayed too long in that process.

Now I have not directed that to the Mayor. I direct it only to you in that it is part of your budget and you are saying to me that there is sufficient resources there. If there are not, I need to know that.

Mr. CLARKE. No; I am not sure that I am. If I understand that case, from what I read about it, the judge was concerned that the U.S. attorney was not processing the case along and there is no money in this budget for the U.S. attorney. That is a Federal budget.

Mayor BARRY. Mr. Chairman, let me just add to that. The judges have repeatedly chastised U.S. attorneys for not processing murder cases in a timely manner. Chief Fulwood has come to me on several occasions very frustrated with people who have been locked up——

Senator ADAMS. Well, I have forwarded a letter to appropriate justice officials inquiring about that matter because the primary concern of any court system or officers dealing with it in the presentation of charges against individuals who are accused of murder 1 is the highest priority that you have. And you are telling me that you have put the resources in. We thought we had put the resources into the court system and made requests that there be transfers into the U.S. attorney's office of sufficient personnel.

We did not leave this system by just concentrating on the police department. We went from one end of it to the other in this committee last time. So if that is not working, we will have other people testifying. But I wanted to put your piece in place that so far as the facilities that you are responsible for, you had budgeted sufficient money.

Mr. CLARKE. We think so, Mr. Chairman, but in terms of the concerns that you have raised, we do have to say that that is the Federal budget. That is beyond us.

I wrote and the council passed the law that says that a person charged with first degree murder may be held without bond without a time limitation upon the time in which he may be held. I was the person who moved that through the City Council. I wrote it in good faith that the Federal Government would use it in a way that was just and not use it in a way to hold people incarcerated for a long period of time without presenting their case before the court.

Senator ADAMS. I understand.

Mr. CLARKE. And I have got great concerns about it. While I do not see oversight over its administration, I am responsible for it being the law in a leadership way of having led the council to do that and I am concerned, as are you.

The administration of that in terms of the U.S. attorney's presentation of his cases to the court is not under our oversight or——

Senator ADAMS. I understand that.

COUNCIL'S CHANGES TO THE BOARD OF EDUCATION BUDGET

Mr. CLARKE. Thank you.

Let me go to an issue that is of great importance to the council, Mr. Chairman. In consideration of the budget request of the public schools, the council paid great attention to the report of the committee on public education, COPE. COPE, as I am sure you know, is a special committee commissioned in early September 1989 by the school superintendent to conduct a broad examination of the public school system and based on its finding to develop a long-range plan to improve the quality of education provided for the children in the District.

COPE is made up of 64 individuals representing a broad spectrum of interest, the business community, universities, churches, parents, and nationally recognized experts in education. In June 1989, COPE issued a report which laid out a 5-year plan recommending $515 million in new expenditures. In discussing its plans, COPE recommended that the D.C. government and the Federal Government finance the improvements 50/50 and that the private sector be involved.

For fiscal year 1991, COPE endorsed the school board's request for an increase of $100 million. The budget approved by the council and signed by the Mayor approved what the board asked for with the following exceptions:

$16.9 million was denied to correspond with the school board's reestimation of the enrollment. That was worked out with the school board and our committee on education and libraries.

The financing for $10 million, one-half of the requested $20 million, for school improvements was shifted from a pay-as-you-go transfer to the traditional method of financing capital project long-term bonds. Therefore, the $20 million is still available for being expended, it is just financed in a different way.

In funding, a $36.4 million for pay raises was deferred. The council chose to defer funding of pay raises until after they were negotiated, which is traditional, and committed to funding them in a fiscal year 1991 supplemental budget.

The Budget Request Act passed by the council and signed by the Mayor commits any increase in the Federal payment above $430.5 million up to an increase of $36.4 million to public school pay raises.

Therefore, consistent with COPE's recommendations, the council is asking the Congress to increase the Federal payment to the city for fiscal year 1991 by at least $36.4 million.

COPE reached its conclusion that there is a need for an increase in the Federal payment and recognized what the District has been arguing for some time, that is that unless there is a predictable, reliable, formula based Federal payment which increases over time, the government of the District of Columbia will never be able to be truly responsible for the management of its own fiscal affairs.

COPE realized that it would have been irresponsible to simply direct the government to increase spending without recognizing the need for a predictable growing Federal payment.

NO GROWTH IN THE FEDERAL PAYMENT

Predictability is really no longer an issue. It has become predictable. It is the same amount every year. I wish to make it clear that

I am cognizant of the fact the city benefits from the Federal presence. The Federal Government provides jobs, tourism, conventions, and other attractions. Also, a large part of the cultural life of our city is enhanced by the Federal presence.

But the Federal payment has not been growing with our city and indeed its stagnation is endangering our financial health. The Federal payment is not a subsidy to the D.C. government or a present. Instead, it is a compensation for the extraordinary impact of the Federal presence.

The legitimacy of the Federal obligation to the District has long been accepted, but the District and the Federal Government have failed to reach a mutually accepted method to determine the amount of that obligation.

The Federal Government does not pay taxes to the District, but some 44 percent of all real property is tax exempt as a result of the Federal presence either because it belongs to the Federal Government or because it belongs to foreign governments and other organizations exempted by acts of Congress.

In all, when measured as a percentage of the revenues it would produce if it were a tax paying commercial enterprise and unable to interfere in the District's tax policy, the Federal Government places on the shoulders of others its fair share of the city's tax burden.

As of September 1989, the Federal Government was paying only 24 percent of what it would pay if it were a commercial taxpayer. The current system for providing Federal payment to the D.C. government is not working. The payment is not large enough and it is not keeping pace with the growing responsibilities of the District government.

The inadequacy of the Federal payment is slowly strangling the District. First, the failure of the Federal payment to grow is denying the city a natural increase in revenues needed to finance the natural increase in the costs of programs.

The problem is compounded as the District turns to its own citizens and to its own business community for increased taxes creating a disincentive to live and work here. We see that in a story that came out today about the decreasing population, as well as the decreasing tax base.

The stagnant Federal payment does artificially constrain the growth of the District's tax base. In fiscal year 1985, the Federal payment was $425 million. Since then it has grown by 1.3 percent. In fiscal year 1991, it is $430.5 million and it is just $5.5 million greater than it was 6 years ago. In fact, it is actually lower than it was in fiscal year 1986.

In the same period that the Federal payment has been basically flat, the District's primary resources have had to make up the difference. The personal income tax grew by $684,800,000. The business income tax grew by 56 percent. The property tax grew by 85 percent. The sales tax grew by 61 percent. All of those grew by a combined 67 percent. If they had grown at just 1.3 percent that the Federal payment had grown, the city would have $826 million left this year.

On the other hand, if the Federal payment had grown at the rate at which these had grown, there would be $709 million more—

there would be a Federal payment of $709 million or $278.5 million greater than the current appropriation.

AN INCREASE IN THE FEDERAL PAYMENT FOR TEACHER PAY RAISE

Mr. Chairman, all of this is going to say that this issue of the Federal payment is serious, but this year it is particularly serious. This year the council, by the act that we passed and that the Mayor has signed and I presume, therefore, is committed to, any increase that you would provide in the Federal payment will go to meet the recommendations of the COPE committee and will go to the payment of teacher pay raises. That is extremely important because our schools operate in a metropolitan area in which there is a competition for qualified teachers to teach in our system. We want to get to the situation in the District of Columbia where our teachers' salaries are comparable with those in the metropolitan area.

The purpose of this request is to ask that you increase the Federal payment by at least that amount of money included in the provision in the appropriations act that we had sent to you. That money will go to the public schools for pay raises.

ADDITIONAL COMMITTEE QUESTION

With that, Mr. Chairman, I thank you very much for the opportunity to come before you and to testify to you and to present the council's work on this budget of the District of Columbia.

[The following question was not asked at the hearing, but was submitted to the Department for response subsequent to the hearing:]

Additional Committee Question

UNCOMPENSATED TRAUMA CARE

Question. As you both know there is a growing problem at local trauma centers concerning uncompensated care. Mr. Clarke you recently wrote to the Committee on this subject. Are there any proposals either within the administration or in the legislative area that address the problem of health care benefits for the uninsured, specifically for trauma care?

Answer. The high rate of drug-related violence in the District of Columbia—which is higher than most cities in our nation—continues to take an enormous toll on public and private resources, particularly in the areas of human services and criminal justice. Within human services, our health care system is especially strained by several factors, including the large number of persons needing drug treatment and rehabilitation, and the growing population of gunshot victims and stab wounded needing trauma care.

Many of these trauma victims cannot or do not pay for the cost of their care, primarily because they cannot afford or do not otherwise have access to private insurance, Medicaid or other subsidized health coverage. As a result, substantial financial losses have been incurred by hospitals which, if they offer trauma care, are required by law to treat a trauma patient regardless of ability to pay. These financial losses have led hospitals to consider reducing or even eliminating this highly specialized service. One local hospital has already eliminated its trauma service, and a second has threatened closure if no relief is forthcoming.

The crisis of uncompensated trauma care now threatens the viability of high quality care being available when needed for residents, workers, and visitors to the metropolitan Washington area who fall victim to blunt or penetrating injuries. I respectfully request the subcommittee to use its influence to direct additional federal dollars and resources, beyond those needed for the schools, toward the mitigation of this serious health care crisis in our nation's capital.

In addition, there is pending at both the federal and local levels legislation that would help address the District's trauma care crisis:

The Emergency Medical Services and Trauma Care Improvements Act of 1990 (S. 15), which you have co-sponsored, would establish a national clearinghouse on emergency medical services and trauma care and authorize additional funds for state grants to improve trauma care systems. This legislation establishes a desperately needed program for addressing the uncompensated trauma care problem in our nation. I certainly appreciate your cosponsorship of this legislation and would appreciate any support that you can provide to target this program's assistance toward those communities, such as the District of Columbia, where trauma care service delivery has been severely impacted by continuously high levels of drug-related violence. (I understand that the House approved a companion bill, H.R. 1602, in November 1989 and that S. 15 may be scheduled for a Senate vote in the near future.)

Rep. Henry Waxman has recently introduced H.R. 4701, the Trauma-Care Center Revitalization Act of 1990, which would provide financial assistance for certain trauma-care centers in geographic areas with a significant incidence of violence arising from the abuse of drugs. As I indicated in my comments regarding S. 15 above, this type of approach would be very beneficial for the District of Columbia.

On the local level, two bills have been introduced, which I have co-sponsored, on which public hearings have been held, and which are currently pending in the Council's Committee on Consumer and Regulatory Affairs: Bill 8-123, the Comprehensive Health Care Act of 1989; and Bill 8-144, the Comprehensive Health Insurance Association Act of 1989. Each measure is designed to provide universal health care coverage to all District residents, by difference means of encouraging all employers to provide health benefits to employees, and by offering different types of subsidies for those residents who cannot afford or do not otherwise have access to private insurance or Medicaid coverage. One of the major impediments to passage of this type of legislation, as you might suspect, is cost: $135 million annually, according to one estimate of the District's Office of Budget Analysis.

SUBCOMMITTEE RECESS

Senator ADAMS. Thank you very much, Mr. Clarke.

I might suggest that you take that matter up also with the appropriate authorizing committees and it is only a suggestion and should be taken as nothing more than that, but you might wish to break out a method of presenting the Federal payment with the educational budget as a separate or different component. We considered that at the time that we drafted the charter and rejected it at that time, but you might consider it and think of the authorizing committees.

I want to thank all of you for appearing this morning. We have much more that we would like to do with it. We will stand in recess subject to the call of the Chair for further hearings.

We will stand in recess subject to the call of the Chair.

[Whereupon, at 12:40 p.m., Thursday, May 24, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, JUNE 21, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1 p.m., in joint session with the House subcommittee in room H-301, the Capitol, Hon. Julian C. Dixon (chairman) presiding.

Present: Representatives Dixon and Gallo, and Senator Adams.

NONDEPARTMENTAL WITNESSES

OVERVIEW OF FISCAL YEAR 1991 D.C. BUDGET

STATEMENT OF HON. STAN PARRIS, U.S. REPRESENTATIVE FROM THE COMMONWEALTH OF VIRGINIA

Mr. DIXON. The committee will come to order.

This time has been set aside for testimony by Members of Congress and public witnesses. Last year Senator Adams and I suggested that the House and Senate join together to hear Members of Congress and public witnesses, and it worked out very well so we decided to do it again this year. And we are once again pleased to be joined by our colleagues from the Senate. As all of you know, Senator Brock Adams from the State of Washington is chairman of the Senate Subcommittee on D.C. Appropriations.

Senator Adams, we are happy to have you and your colleagues with us today.

Senator ADAMS. Thank you, very much, Mr. Chairman.

Mr. DIXON. We are splitting the hearings into 2 days this year and taking the first 10 witnesses today. The other 15 or so will be heard probably sometime next week. Of course they have the option of submitting a written statement for the record if they so desire.

Senator ADAMS. I think it better accommodates the witness also.

PREPARED STATEMENT

Mr. DIXON. Our first witness today is the Honorable Stan Parris, who represents the Eighth District of Virginia. Congressman, if you have a prepared statement, it will be entered into the record in its entirety.

If you would like to highlight your statement, we would be pleased to hear your testimony at this time.

[The statement follows:]

STATEMENT OF HON. STAN PARRIS

Mr. Chairman. Let me begin by commending your continued good patience and commitment to a task which is difficult, time consuming and often frustrating. Let me also commend and thank my good friend and your Ranking Member, Representative Dean Gallo, for his perseverance to achieve the best training program possible for our police department. Most important, let me acknowledge the helpful professionalism of your committee staff. They make the essential difference and I want to thank them for their cooperation and assistance.

I also want to comment upon what has to be an acknowledged fact. Namely, that the District is presently undergoing great political change, great difficulties, and something of a lack of attentive leadership. While much of that is understandable given the problems confronting various individuals, that cannot be taken as either an opportunity for mischief, lessened oversight or lack of goals by the Congress or the City.

I make that comment because the City is now at a crossroads. The growth of revenues from the economic boom are now slowing and the population appears to be declining. Programs, however, continue to expand and grow. Much of that may result from the changing needs of the population. As long as the economy boomed, added programs and added personnel could probably be overlooked. That time, however, is now past.

FOCUS ON FUNDAMENTALS

We need to focus on fundamentals. There is nothing more fundamental than public safety, health, and basic education. We must assure that public safety is paramount in our budget. More importantly, we must assure that the men and women who serve us as police and firefighters have the best training and the best equipment. It is not always an issue of money. In some cases, it Is an issue of commitment and an issue of procedures and process. While we cannot mandate commitment, we can streamline procedures and processes.

POLICE DEPARTMENT NEEDS INDEPENDENT PROCUREMENT AUTHORITY

Toward that end, I ask that you permit the Police Department to directly procure needed goods and services up to $500,000. The current level of direct departmental procurement of $10,000 is simply unworkable given the growth of the department, the slowness and conflicting objectives of the regular procurement process, and the continued level of violent crime. I would also hope that you will permit unspent funds to remain available to the police department until used. There appears to be a process which seeks to use unspent funds from the procurement process to balance the budget at the detriment of the department. That is simply unacceptable.

Chief Fulwood told you that unless he achieved some success with this wave of violence, he would leave. Let me say to you that unless we assure him of the needed resources, there is no way he will succeed. I, for one, do not intend to be a party to a mandated failure.

EMERGENCY MEDICINE IMPROVING BUT NEEDS MORE CAREFUL PLANNING

Let me also note that while we appear to be getting a handle on our Emergency Medical Services, some of the planned programs may have some hidden costs which we ought to acknowledge. I applaud the proposition that fire fighting equipment be sent to assure assistance; but, I would note that the fire department's capital budget proposes that equipment be replaced on a ten year, as opposed to a twenty year, schedule because of that policy. That is a major hidden cost which may well magnify the already very extensive capital budget. If more ambulances or medical transport equipment is needed, it might be best to consider whether that would be more cost effective or whether, indeed, the concerns expressed about this new plan are valid.

As you know, the City has proposed to spend an additional $8 Million for Emergency Medical Services. While that would upgrade all of the ambulances to Advanced Life Support units, there would be no additional units. Admirable as the proposal to upgrade may be, the City may well find that it cannot obtain sufficient numbers of trained personnel to accomplish that task in any reasonable period. We would still be left with an average of 21 deployed units since deployment varies from 17 to 26 or 2 units depending on the time of day.

The Mayor's own EMS advisory committee headed by Joe Yeldell did recommended a different plan. That plan included a dual role for all firefighters, and cross training. Engine companies would still respond and a higher level of care would ensue since firefighters would be trained as paramedics. These first responders would provide aid and stabilize the individual who would then be transported in an appropriate vehicle. That would provide more trained personnel and better use of resources. It's a model used elsewhere and one which I think should be studied even as we make this commitment for resources to emergency medicine.

CITY MUST SET PRIORITY FOR FUNDING OF OTHER COMPONENTS OF EMERGENCY MEDICINE IF HOSPITAL CLOSURES AND EMERGENCY HEALTHCARE RATIONING ARE TO BE AVOIDED

In this same vein, let me also note that we must consider what priority and care we want our medical facilities to deliver to those who suffer violence because they have elected to pursue a lifestyle which is decidedly and criminally deviant and at a substantial variance from the norm. Unless the City is prepared to assist the hospitals, emergency rooms, and rehabilitative services with their burden of care for those who are subjects of violence from deviant lifestyles, these facilities will close with the resultant impact of harm to those who justly need their care. In short, unless the City decides that medical care for all people, however injured, will be provided or that it will undertake some other process, we have implicitly adopted a medical rationing system that deprives innocent people of competent care. We have seen the layoffs at three hospitals. The next set of moves will not be layoffs; they will be closures. That will result from our indifference, studied lack of priorities and focus on fundamentals.

ACCOUNTABILITY FOR CRIMINAL ACTS REQUIRE SUFFICIENT SPACE IN CITY

One of the other fundamentals we must focus upon is how, when, and where people are held accountable for criminal acts they commit. The 800 bed facility at 19th and E Streets is now underway. It has been a long time in coming. Another facility is also under consideration. I would hope that this Subcommittee would give some guidance on its location so as to avoid unnecessary delay in the site selection process. If we are ever to get control over this drug epidemic, we must have the will and the means to quickly and decisively hold abusers accountable. That means we must have adequate facilities to detain those who use, sell, or facilitate the use of illicit drugs. It has to happen on the first or second instance; we cannot wait for the 14th instance and a resultant commitment to a halfway house. That becomes the wrong message. Drug abuse cannot be tolerated; it has to be clear that such abuse carries with it a discernible penalty which is the outgrowth of criminal conduct even though that conduct may have some medical derivative. When all is said and done, the fact of the matter is that drug abuse is an elective lifestyle which we need to clearly, openly, and notoriously denounce.

EDUCATION NEEDS LONG-TERM PLAN

In the longer term, we must focus on the fundamentals of education. That longer run focus does not necessarily mean commitment to the asked for increase and earmark of the Federal Payment of $46 Million. What it means is that we must take the report of the Committee on Public Education and build a multi-year implementation and financial plan which will put teachers in the classrooms and principals in the schools while lessening the number of headquarters and regional staffs. That is not a short term process. A commitment to education, however, cannot be a short term process. In light of the financial circumstances which presently confront the City, I would hope that we will see some long term planning in this area that will stretch for some 10 to 15 years.

FINANCIAL MANAGEMENT MUST UNDERPIN FUNDAMENTALS ALL CITY PROGRAMS NEED PERIODIC EVALUATION ON CONTINUED USEFULNESS

Let me now turn, for a moment, to the issue of financial resources which enable the City to undertake its programs. I noted earlier that the growth of revenues appear to be declining along with the population. Yet we continue to add programs and personnel. It would seem to me that this Subcommittee may well want to ask the City to develop a multi-year plan to assess every program presently in place as well as to reduce the work force by some substantial number.

STREAMLINED WORKFORCE COULD TAKE SEVERAL YEARS TO ACCOMPLISH

I'm told that upwards of 15,000 people could be cut from the workforce if the City decides that it is determined to streamline all of its operations. While such a number may or may not be a fantasy, it is imperative that the City look at ways to reduce its workforce and to do so in an orderly and businesslike manner which is calculated to do minimal harm to those whose jobs are eliminated. That is a multi-year process; that requires efforts at retraining, efforts in outplacement, the results of attrition, and offers of early retirement or some buyouts of positions. The process presently in place now, with periodic freezes and furloughs, cannot possibly be productive or enhancing of morale. Instead, it is expensive and demoralizing.

CAPITAL BUDGET NEEDS LIFE CYCLE COST ANALYSIS

Additionally, the City really needs to attempt to put some control around its debt burden. The Capital Budget continues to grow and often with items, sometimes but not always eliminated, that are not necessary. While a Capital Budget is the appropriate vehicle to finance long life facilities, it is important to assess whether the total costs of a project, including the interests, are cost effective. Sometimes it is better to delay and fund the projec as a current expense. What comes to mind are the numerous renovations which, in some instances, were delayed maintenance items that have grown to massive undertakings. Long term planning is the key to controlling these kinds of earnings. While it is hard to do in light of all the immediate demands, it has to be done if the bond ratings are to be preserved.

FULL FUNDING OF RETIREMENT BOARD IS FIRST STEP TO MORE ASSISTANCE

I cannot, of course, let this moment pass without noting that the City, again, has declined to fully fund its share of the expenses of the Retirement Board. The $9 Million operating budget is overwhelming financed from investment earnings. While some may feel that investment fees should be paid from earnings, the statute is clear that the City is responsible for administrative expenses. If the City had paid the just the actual administrative expenses from 1982 the future value would, under the most conservative assumptions, amount to an additional $13.586 million through 2004. Were the City to pay the entire cost, including management fees, that would amount to an additional $75.2 Million or a total of $88.7 Million. It is a small outlay in relationship to the return. Until the City begins to accept some additional responsibility for this fund, it will be hard for those of us on the authorizing committee to press for for some additional remediation of that liability.

GREATER FEDERAL FUNDS NO CURE FOR FINANCIAL PLIGHT, THOUGH REVIEW MAY BE BENEFICIAL

Let there be no doubt that the Federal Government needs to do its share in paying the costs of operating the Nation's Capital. Given that it is the Nation's Capital, a showcase to the world, perhaps it ought to do more than its share. That fact, however, cannot be a license to the managers of this City to acquire everv program and fund every hope and aspiration that may utter from the lips of those who work, live, or visit here. There are limits. Given our national fiscal crisis, those limits become more and more real. Yet, it seems to me that we have come to the time that we need to revisit the Federal contribution as well as the overall budget process which the City undergoes. It seems to me that this is an undertaking your Subcommittee and my Full Committee ought to contemplate doing jointly in the upcoming Congress and to include a review, which you suggested, of the structure and form of government.

Having said that, I would also note that the cure of the City's financial plight will not be found in more revenues, a greater Federal Payment, or lamentations about the constraints on the taxing authority. It will, instead, be found in a more careful monitoring of expenditures and revenues, a matching of expenditures to revenues, and a planning of expenditures. The hand wringing we have seen over the past week about a $45 Million deficit is quite hysterical. As an order of magnitude, $45 Million is about 1.5 percent of the more than $3 Billion budget. That is a pretty close match and with any kind of luck, ought to be manageable.

ECONOMIC DEVELOPMENT NEEDS CONTINUED STIMULATION, NOT ROADBLOCKS

Any review of the City's structure and budget process should also encompass a review of support and aid for economic development. Are the right incentives in place or is the process awash in unrealistic zoning and land use requirements that are now contributing to the downturn of the earlier economic boom?

The economic development which gave the City new jobs, buildings, and unprecedented increases in taxable values is now endangered by density and design overlays which stymie growth. It has put at risk the very ethnic communities that were to be helped. Worse, however, it may make growth and new development so costly that the stagnation associated with another era will return. That we cannot afford. Our's is a vibrant nation; our Capital City must also remain vibrant.

A little bit of control is good; more is not necessarily better.

CONCLUSION

This is admittedly a long and extensive statement. Over the years I have participated in this process, I have, however, come to the conclusion that we must begin to force attention to business like practices. With a new Mayor in November, it is important that he or she not be saddled with the belief that urban governments are unmanageable. To say that they are unmanagable, to cry about the lack of resources and to put the blame on another party, in this case the Federal Government, is to abandon the City and find excuses for a self-fulfilling failure. We don't have to fail. As one of your colleagues said early last week, there is nothing that we cannot accomplish if we set our minds to it in a cooperative spirit.

Mr. Chairman, thank you for your time.

STATEMENT OF HON. STAN PARRIS

Mr. PARRIS. I appreciate that very much, Mr. Chairman. I assure you gentlemen I just came from a subcommittee hearing in Banking and Finance Committee on the pass-through deposit insurance. I am scheduled to make an appearance in what I think is going to be one of the most significant and emotional debates it has been my privilege to be involved with in the Congress of the United States on the flag situation. So I will be exceedingly brief.

I hope that will not be interpreted as any lack of enthusiasm for our purpose here.

Mr. DIXON. It shall not.

Mr. PARRIS. Let me just, first of all, commend you and the Senator for your continued good patience and commitment to problems in this city and especially to my friend, Dean Gallo, for his efforts particularly in securing training facilities and equipment, for the police department of this city.

He has done an outstanding job. I am very grateful to him for what he has done and appreciate his help.

Mr. GALLO. Thank you.

Mr. PARRIS. I would be remiss if I did not say that your staff, majority and minority have been very helpful, Mr. Chairman, and for that we are exceedingly grateful as well. I need not spend your time nor mine talking about the dramatic political changes, the difficulties of some of the circumstances that we find in the Nation's Capital, and that I believe the city is now at a crossroads.

We need, I think, to focus we in the Congress and the city, on the fundamentals of public health, public safety, and basic education.

Public safety has to be, I think, paramount in all of this, and I will mention to you just very quickly two or three specific items for your consideration.

POLICE PURCHASING AUTHORITY

I think that the police department needs to be able to directly procure goods and services that cost about $500,000, and I think that is more than well justified. I am told that Chief Fulwood said unless he can do some beneficial things, he is not going to be around, and I would suggest that unless we assure him of the needed resources, there is no way he can succeed. So all of us share that point of view.

I think you should also permit the unspent funds to remain available until utilized by the police department.

FIREFIGHTING EQUIPMENT

On the firefighting equipment, the situation, as you know, most of that equipment goes to fires and is utilized extensively.

They now want to replace it on 10 instead of a 20-year schedule, as I understand it. That makes to me a great deal of sense along with the upgrade of the ambulances since we continue to hear some of the regrettable instances of the 911 problems.

If we upgrade those ambulances to advanced life support units, although there would be no additional units, those units would—and I will be candid to suggest to you, Mr. Chairman, I have a couple hundred thousand constituents who come to this town every day, work here, engage in their professional or work activities here be beneficial.

If one of them gets run over on the street corner, I would like to have personally, as their representative, the best possible equipment and service available to them.

ADDITIONAL CORRECTIONAL FACILITY

In regard to penal facilities, none of us need to revisit the tortured history of the 800-bed-facility that we now have. I would hope that this subcommittee would give some guidance to the location so as to avoid another unnecessary site selection delay on an additional facility if, in fact, one is going to be reviewed, considered, or advanced.

REVENUE PROBLEMS

On the revenue situation, I think, Mr. Chairman, we might very well be advised to suggest, in strong language to the city, that they develop a multiyear plan to assess every program presently in place, as well as to reduce the work force, the personnel rolls of the city.

INTEREST IN CITY SUCCESSFULLY PROVIDING SERVICES

I am sure I speak for you—and this may not get reported in the media like this very often—I have no desire to micromanage this city. I don't think any person at this table, in this room or in this Congress does. I don't really care about potholes and street lights and garbage collections as long as it works, and when it doesn't work, then I think we have an obligation to try to help make it work.

I wish, really, that it would simply work. If it does, then that serves the best interests of all of us. I also think the city needs to put some attempt at managing its debt burden. You gentlemen continue to suggest that they fund the retirement board and the unfunded pension liabilities and so forth, and as best I can determine it, and to put it very candidly, I think we are all being ignored.

With all of that, Mr. Chairman, I could go on. I will not do so. I will be glad to respond to any of your questions. I look forward to working with you as the authorizing committee of appropriations.

ARMED ROBBERY BY HALFWAY HOUSE RESIDENT

Mr. DIXON. Let me ask you about an issue that you did not raise here, Congressman, but you raised it on the House floor yesterday during the 1 minutes. I happened to be watching. Your comments seemed to indicate that you had some firsthand knowledge or at least some understanding of the background of the person who was involved in the felony in Bethesda.

Mr. PARRIS. Yes.

Mr. DIXON. Would you share with us your understanding of the situation.

Mr. PARRIS. Yes; the gentleman that was involved in—Mr. Robertson, my staff director, is here, and he may correct me if I am in error anyway.

The gentleman's name is Donald Shelton.

He was determined, found guilty of armed robbery, sentenced to 40 years. That was about 7 years ago. In March of this year, he was eligible for parole, but was not granted parole for cause.

I am not sure I know if we know what that cause was. Do we?

Mr. ROBERTSON. No; he became eligible in December and was transferred to a halfway house.

Mr. PARRIS. He was transferred to a halfway house. In March his parole was denied for cause, and I am not aware of why. This weekend past or the one before that, he was given a weekend furlough from a halfway house, got himself a gun, went to a jewelry store in Bethesda, walked in, and as you know took a bunch of gold and materials of one kind or another, ran out of the place with the shop owner behind him with his gun, jumped in a car, and the shop owner shot him and an accomplice. And this is not a humorous matter, Mr. Chairman, but the accomplice is on crutches, as I understand it, in the getaway car which, to me, makes it a little tough to get away, but nonetheless, he is there and obviously involved in all this.

So the community businessman shoots both of them.

Mr. DIXON. But basically your information is that he was in a hallway house and that he had received a weekend pass?

Mr. PARRIS. Yes.

Mr. DIXON. Where I guess he wouldn't have to report in?

Mr. PARRIS. Yes.

Mr. ROBERTSON. It was Friday to Sunday.

DISTRICT'S EARLY RELEASE PROGRAM

Mr. PARRIS. If you may recall, Julian, we dealt with the Early Release Program in the D.C. appropriations bills the year before last?

Mr. ROBERTSON. That was 1987.

Mr. **Dixon**. It was in the Fiscal Year 1987 D.C. Appropriations Act. That is the reason I raised the issue. Senator Adams, any questions?

Senator **Adams**. I just have one. I have been written by Arnold Sagalyn, who used to head Arthur D. Little here suggesting that Pat Murphy might look at the police department that we have a very heavy overtime and larger number of police per capita than anyplace in the country and that somebody should examine this.

Now, this is a very tender subject and so I have replied to him. I just wondered what your feeling about that was because we have been very supportive of the police department with additional officers.

Mr. **Parris**. Yes; including Mr. Fauntroy. Excuse me, I didn't mean to interrupt.

Senator **Adams**. No; I just wondered whether or not I wanted such a person called as a witness at some point here to state their position because it is contrary to the procedure that we generally follow.

Mr. **Parris**. Let me make just two points in that regard, if I might. You will recall that in a bipartisan exercise, which I think was commendable, myself, Mr. Dellums, Mr. Fauntroy, you gentlemen, everybody supported the additional funding and availability of 700 new police officers, and that was, in fact, adopted and provided.

The only complicating factor in all that was the continued specter of the residency requirement, which is now, we think, beneficially improved, so the question is, What do those 700 police officers do?

Well, I happen to believe, and I heard Chief Fulwood say that a uniform police officer in the community is where it is at in terms of law enforcement. The problem, and this is the report, the media report basically, that a greater percentage of the personnel of the police department of the city of the District of Columbia is utilized in what I would call administrative or background or in some way other than uniformed policemen on the street. Therein I think lies part of the problem. And that is why, gentlemen, in part, why I suggested to you that I think the utilization of these resources needs to be very carefully reviewed by this subcommittee and by the authorizing committees of the Congress, because there has to be a reason why 50 or 60 percent of the people, and that is my media reports, at least in my recollection of what that number was that are otherwise engaged than in the most effective crime preventive mode.

Senator **Adams**. Thank you, Mr. Chairman.

Mr. **Dixon**. Mr. Gallo?

POLICE DEPLOYMENT AND TRAINING

Mr. **Gallo**. Mr. Chairman, I would just like to respond to Congressman Parris.

First of all, when we had the Chief in here, he indicated he preferred uniformed patrols and community action patrols. He said he felt very satisfied with the successes with the community-backed patrols.

I have been concerned about recruitment and training, and I was given assurances that they have made significant changes and will continue to make more changes and are looking at the feasibility of a final exam.

They are also doing evaluations early on so that someone doesn't go through most of the system and then learn that he or she is not able to handle the responsibilities of being a police officer.

ACCREDITATION STUDY OF POLICE DEPARTMENT

I am still disappointed that there is no mechanism to evaluate the police force by an outside source. The Chief still feels that can be done, perhaps by the university rather than an outside accreditation. I have again emphasized how important it is to get an outside review in order to best utilize the men and women in the force. He has indicated he is anxious to do that.

Mr. **Parris**. That is excellent news. I commend you for that. There are experts who do this sort of thing in every other major urban area in the United States, and why not here? This is a unique place. It is the Nation's Capital, but it is not that unique.

Police here do the same thing police do in los Angeles or Salt Lake City or wherever.

LETTER FROM ARNOLD SAGALYN

Senator **Adams**. Mr. Chairman, I ask unanimous consent the letter I received from Mr. Sagalyn with his suggestions and the suggestion for a consultant be included in the record at the end of Mr. Parris' testimony.

Mr. **Dixon**. Senator, the letter will be included in the record.

Stan, thank you very much for your conscientious efforts with the District of Columbia and thank you for your appearance here today.

Mr. **Parris**. Thank you, sir. Good to see you.

[The information follows:]

Letter From Arnold Sagalyn

May 30, 1990.

Senator Brock Adams,
U.S. Senate, 513 Hart Building,
Washington, DC.

Dear Brock: Reading the Post's story last week about your hearings on the District's policing problems pointed up the public information gap that exists on the adequacy of the D.C. police manpower and law enforcement capabilities. The claims by Mayor Barry and Chief Fulwood that they don't have enough police to maintain law and order in Georgetown and other areas of the city, and that enormous amounts of costly overtime are essential, just don't make sense. I believe a study of the allocation of the city's police manpower will show there is tremendous waste and misuse, and that additional police and overtime may be unwarranted.

I have been talking with Pat Murphy, whom you will recall was the D.C. Public Safety Director at the time of the 1968 riots and later served as police commissioner of New York City and Detroit. Pat, who is currently the police advisor to the U.S. Conference of Mayors here, points out that D.C. has twice as many police per 1,000 population as other major cities. He also believes an in-depth survey of the District's police manpower will disclose that an appreciable number of these officers are not being properly or effectively utilized. For example, many officers listed on the police records as assigned to individual districts and available for regular policing duties are actually working elsewhere on special assignments. He has also been informed that some officers are making up to $100,000 a year because of the 6-day weeks many have been working over the past year.

If he is correct about what such an analysis of police manpower will find, the Congress and the D.C. community will have the basis for demonstrating how significant numbers of sworn officers could be freed for street and neighborhood policing, as well as eliminating millions of dollars in overtime costs.

The crime problem in Washington is so critical and the public so fearful of its safety on the streets and at home that we are all at the mercy of those claiming to have the facts—Barry and Fulwood. It would be a great service if your committee could find out what the facts are with respect to the D.C. police resources and capabilities, and whether they are being utilized to best advantage. Pat Murphy (who only works part time for the Mayors and does outside consulting) said he would be available to help your committee undertake such an assignment. He clearly has the background and credentials for this. If you want to talk with him, his office telephone is 293-7330, and residence 320-5791. Naturally, I would be happy to be of whatever pro-bono assistance I could.

With all best wishes and love to Betty.

ARNOLD SAGALYN.

NATIONAL CHILD PROTECTION TRAUMA AND RESEARCH CENTER

STATEMENTS OF:

DONALD L. BROWN, PRESIDENT, CHILDREN'S NATIONAL MEDICAL CENTER

ROBERT A. MALSON, TREASURER, BOARD OF DIRECTORS, CHILDREN'S NATIONAL MEDICAL CENTER

MIMI KANDA, M.D., DIRECTOR, CHILD PROTECTION UNIT, CHILDREN'S NATIONAL MEDICAL CENTER

TERRY LIERMAN, CHAIRMAN, RESEARCH BOARD, CHILDREN'S NATIONAL MEDICAL CENTER

PREPARED STATEMENTS

Mr. DIXON. Next, we have Mr. Donald L. Brown, the president of the Children's National Medical Center.

Mr. BROWN. Yes, sir.

Mr. DIXON. I notice you have a prepared statement which we will place in the record in its entirety.

[The statements follow:]

STATEMENT OF DONALD L. BROWN

Good afternoon, Chairman Adams and Chairman Dixon and Members of the Subcommittee. I am Donald L. Brown, President and Chief Executive Officer of Children's National Medical Center. I am accompanied today by Mr. Robert Malson, Treasurer of the Board of Directors of Children's National Medical Center and Executive Vice President of the Close-Up Foundation; Dr. Mireille B. Kanda, Director of Children's Division of Child Protection, and Mr. Terry Lierman, Chairman of the Board of Children's Research Institute. Thank you for this opportunity to present testimony on behalf of Children's Hospital and to give you a status report regarding our plans to establish a National Child Protection, Trauma and Research Center.

As you know, we introduced our plans for a major child victimization initiative last July in hearings before this Subcommittee. At that time, we discussed the growing national tragedy of child victimization in all its many forms, and we described the innovative program we are developing at Children's National Medical Center to address this local and national problem. The National Child Protection, Trauma and Research Center which we are initiating will provide necessary and immediate care for today's young victims of violence, abuse and neglect, and will offer a range of prevention and research programs.

In his testimony in July, 1989, Dr. Martin Eichelberger, Director of Emergency Trauma Services at Children's Hospital, summarized the five critical areas related to victimization which will be the focus of our treatment and prevention programs at Children's National Medical Center. These include child abuse prevention and protection trauma emergency medical care, pediatric AIDS/HIV treatment, substance abuse prevention and critical care for neonates and children.

We come before you again this afternoon in our capacity as one of the primary health care providers for the children and adolescents of the District of Columbia and the greater metropolitan Washington area. We want to underscore in the strongest terms our commitment to and our concern for the growing number of children in our nation's capital who are victims of a host of societal problems over which they have no control. The challenge has never been greater than it is today to protect our children from the web of violence that has fallen upon the District of Columbia, and other major urban areas of this nation.

Children's Hospital has for many years been a leading advocate working on behalf of children at risk. As an example, for over a decade, our Division of Child Protection has treated thousands of maltreated children and their families—many of them victims of battering, neglect, sexual molestation, homelessness and adolescent pregnancy. We are convinced that through the expansion of our programs in child protection and advocacy, that we can make a major difference to the children and families in the District of Columbia, and offer solutions to the problems which have dogged this city for so many years.

I would like to ask Mr. Robert Malson to comment from his perspective as a Member of our Board of Directors, and as Executive Vice President of the Close-Up Foundation, about the need in the District of Columbia for such a child protection initiative. Then, Dr. Kanda will give a brief presentation from her perspective and experience as Director of the Child Protection Division.

Thank you, Mr. Malson, and Dr. Kanda.

In conclusion, I would like to ask the Committee's serious consideration of our request for a funding partnership to help meet some of the construction costs associated with this Center, and that funding be included in the fiscal year 1991 D.C. Appropriations Bill, specifically for this purpose. The Center will unquestionably contribute to the safety, health and welfare of the children of the District and region. Federal funding for the Center is essential to Children's National Medical Center's ability to undertake such a capital project and will enable us to continue our historical commitment in providing care to the children we serve.

We are requesting a total of $19.8 million in Federal funding, to be spread out over a three year period. I want to assure you that these funds will be more than matched by our institution. I would like to also submit into the Record a copy of the prospectus we have written which details the project's costs and programs. Thank you for your consideration of this request. We would be happy to answer any questions you may have.

STATEMENT OF ROBERT A. MALSON

Good Afternoon Chairman Adams and Chairman Dixon and Members of the Subcommittee. I am Robert A. Malson, Treasurer of the Board of Directors of Children's National Medical Center. Thank you for your time and attention this afternoon, and for your commitment in serving on this Subcommittee of the District of Columbia.

As you are well aware, the District of Columbia has witnessed a radical deterioration in its quality of life in the course of this past year. The increase in the number of deaths due to drug overdose, or gunshot wounds caused by the escalating drug trade in the District is almost beyond belief.

This shocking problem is brought home to us on a daily basis at Children's Hospital as pediatric patients are admitted to our Emergency Trauma Services unit. As you may know, members of the Subcommittee on Human Resources of the Committee on Ways and Means visited Children's Hospital last month to observe our treatment of crack babies, and issued a report last week entitled, "The Enemy Within: Crack-Cocaine and America's Families". The Committee report cites that over 100,000 babies were born exposed to cocaine in 1988, many of them suffering the permanent effects of premature birth and poor prenatal care. Additionally, all across the nation, the number of children placed in foster care is steadily increasing with deaths from child abuse estimated at 1,100 annually over the last four years.

These are disturbing statistics. The time is now to turn this devastating state of affairs around by investing properly and wisely in prevention and adequate treatment methods for these broken families.

The demonstration center which Children's National Medical Center proposes will conduct medical research including research into the many facets of victimization, and share findings with those responsible for the health of children in the District of Columbia and with other Children's Hospitals and Medical Centers across the country. The Center will serve as a national model for other federal efforts targeted to strengthen and promote this nation's health care priorities.

Children's National Medical Center is well-equipped to assume national and international leadership in response to the problem of child victimization. It has been a significant and reliable resource for legislators on child advocacy and related public policy issues. You may already be aware that Children's National Medical Center's "Safe Kids Campaign" was the first national effort to organize pediatric accident prevention activities throughout the country. Also, Children's Hospital is recognized around the country for its frequent national symposiums on issues related to child victimization.

I would now like to introduce Dr. Mimi Kanda, Director of the Division of Child Protection at Children's Hospital and a nationally recognized expert in the medical assessment, diagnosis and management of physically abused, neglected and sexually assaulted children.

STATEMENT OF DONALD L. BROWN

Mr. Dixon. If you would introduce the people you have with you, and then highlight your testimony, we would appreciate it. As I understand it, you are going to make a request for Federal funds to help you construct a child protection center.

Mr. Brown. Yes, sir; thank you very much, Mr. Chairman Dixon, Chairman Adams, and members of the committee. I would like to introdce Robert Malson, who is the treasurer on our Board of Directors, also executive vice president of the Close-Up Foundation; Dr. Mimi Kanda, who is the director of our Child Protection Unit, who is also a pediatrician by training; and Terry Lierman, who is also on our research board as the chairman.

We appreciate the opportunity to present some information to you today. As you know, we were here last year to brief you on a major initiative that we were proposing that deals with child victimization, and we discussed what we believe, and believe many do believe that we are facing a national tragedy of child victimization in many forms.

We are proposing a project that will provide necessary immediate relief and care for young victims of child abuse, neglect, and a project that will also offer a full range of prevention, education, and medical research.

In his testimony last year, Dr. Eichelberger briefed the members of this committee on a growing problem relating to trauma as well as to the full scope of our project.

In addition to trauma, we are proposing a center that we would expand our child protection and prevention programs. We would expand our pediatric care programs for AIDS and HIV patients. We would expand our educational efforts in substance abuse and prevention and also our programs that deal with the critical care side of neonates and children.

We come before you today to say again that we believe the problem is a national problem. However, it is a significant problem here in the District of Columbia and in the immediate region. The challenge to us continues to grow. We have a history of 120 years of providing care to children in the District of Columbia and to the surrounding region, and we also have a long history of being an advocate for children across the country.

An example of this is our Child Protection and Prevention Program, which Dr. Kanda is in charge of, and in a moment I am going to ask her to give you her perspective on this problem as well as our perspective on how it could be resolved. Before I do that, I would like to call on Mr. Malson to present his views.

STATEMENT OF ROBERT A. MALSON

Mr. MALSON. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I appreciate having an opportunity to speak before you today. I respectfully ask permission that my testimony be entered into the record as if read, and if I can summarize briefly——

Mr. DIXON. All right.

Mr. MALSON. For 1981 to 1986 I served as the senior policy advisor to the D.C. Commission on Social Service. Prior to leaving the D.C. government, I joined the board of Children's Hospital at that time.

During that experience, I had the opportunity to witness a rather explosive growth in the number of abused children; children suffering from all types of trauma, not only in the city of Washington, but also in the immediate surrounding areas of Maryland and Virginia.

What we are seeking today is the assistance of the Congress in helping us to address not only a local, but a regional problem through the creation of the trauma center dedicated to rectifying and addressing the problems of those children as they come in, but also taking advantage of the research facilities that exist in this area.

We think it is very important. We think it will benefit not only the city and the region, but the country as a whole, and we very much appreciate the support of the Congress in trying to reach that goal. Thank you.

MEDICAID FUNDS

Mr. DIXON. Before you go further, the Children's National Medical Center is also known as Children's Hospital?

Mr. BROWN. Yes, sir.

Mr. DIXON. And there are several organizations under this umbrella, the Children's Research Institute, the Children's Foundation, and so forth.

In 1990 you received $17 million of funding.

Mr. BROWN. In 1990——

Mr. DIXON. In this fiscal year.

Mr. BROWN. No, sir; we haven't received any direct Federal funding. We have received Medicaid funds for Medicaid children that we treat.

Mr. DIXON. Do you receive any District funds at this time?

Mr. BROWN. We have some direct grants from the District of Columbia for our comprehensive care program, so it is a very limited amount of dollars. As I recall, about $300,000, something on that magnitude. We operate two comprehensive health care clinics in the District, which provide primarily preventive care to children in the District.

Mr. DIXON. My chart shows that you received $17 million this year of which 50 percent is from District funds and 50 percent is from Federal funds.

Mr. **Brown**. That is Medicaid, Mr. Chairman.

Mr. **Dixon**. That is Medicaid?

Mr. **Brown**. It would be Medicaid dollars that we received.

REQUEST FOR CAPITAL FUNDS FOR CHILDREN'S TRAUMA CENTER

Mr. **Dixon**. Your testimony here today goes to a particular unit under the umbrella organization—you are asking for funds for a particular unit, a child abuse unit within the Children's Medical Center structure; is that correct?

Mr. **Brown**. Yes, sir; these dollars would be capital dollars that would be used to expand our facility that would address these five broad areas that we have included in our proposal. It would be research; it would be care; it would be prevention; it would be primarily across those five broad areas. But the dollars we are requesting would be capital dollars, not operating dollars.

TOTAL COST OF PROJECT

Mr. **Dixon**. How much do you envision this expansion of structure, I would call it, is that right, would cost?

Mr. **Brown**. Just about $48 million is our estimate. We are asking for $19.8 million as a Federal share. We would then match those dollars, $28.3 million from the community. Our board is committed to raise funds through private fundraising to match the Federal dollars. It would all be for capital.

Mr. **Dixon**. Did you make any request as this budget worked through the D.C. government? Did you ask the D.C. government for any moneys for this project?

Mr. **Brown**. No, sir.

Mr. **Dixon**. I was just trying to get a broader understanding.

STATEMENT OF DR. MIMI KANDA

Dr. **Kanda**. Thank you. I thank you for the opportunity to talk to you here today and to share with you our experience at Children's Hospital in dealing with children who are victimized. We see in the 15 years of existence of the Division of Child Protection, we have seen thousands of children who come to our attention who have received their injuries, burns, fractures, head trauma, very serious conditions that necessitate a lot of very intensive care, but something has happened in the last 7 years.

In addition to maybe the conditions that we see regularly of children who come to us, and if you will allow me to pass these pictures around for your perusal, we are still seeing children who come with bruises, who are battered, who are maltreated. But also we are seeing conditions which are much more serious and which are very much connected to some of the new phenomena that we are observing.

For example, this little boy that you can see there has stabwound marks. He was stabbed by his father, who was under the influence of drugs, and we are seeing this problem presenting itself more and more in these children. The problem of substance abuse of parents is creating physical injuries of children and serious problems of neglect.

We are seeing more and more children who are not even receiving the very basic nutritional care that they require for their mere survival. In addition, we are also concerned with the problem of child fatalities. This is a problem of national concern and one which is also present in the District of Columbia.

We are seeing a number of very young children who are dying at the hands of their caretakers, and they are the child fatalities. This is where we are realizing that victimization touches a number of societal problems we see, domestic violence, substance abuse of the caretakers, the problems of HIV infections, which are very often tied in with the drug use, all of this ties in and does have an impact on children. So we feel very strongly that we do need that, and we do need to mount a comprehensive effort which would involve the five parts of our program.

Thank you. I am going to ask Mr. Brown to conclude our testimony.

SOURCE OF FUNDING FOR CHILDREN'S HOSPITAL

Mr. DIXON. Before you conclude, Mr. Brown, how is the Children's Medical Center funded? Strictly all private funds except for the Federal Medicaid?

Mr. BROWN. Yes, sir; we are a private hospital. We are funded principally through payments for physician and hospital services that are rendered. About probably 45 percent of that is through Medicaid and Medicare, and the three, the tri-state jurisdiction, the remainder of that is through insurance companies and private pay.

COST OF MEDICAL CARE FOR INDIGENTS

We absorbed close to $30 million in free care this last year that was care delivered to patients that had either total inability to pay or had limited resources to pay. In addition to those funding sources, I mentioned, our board raises money in the community through various activities, golf tournaments, and telethons.

That amount of money that we raise is about $8.5 million. About 50 percent of that is restricted. It comes in for specific programs. The remainder is unrestricted. So $4 million, let's say, is unrestricted. That doesn't even come close to matching the amount of free care that we provide.

Mr. DIXON. Do you take indigent patients who are residents of the District?

Mr. BROWN. Yes, sir.

Mr. DIXON. And it is our estimate that as it relates to D.C. residents there is about a $30 million shortfall from people who have no ability to pay? What is your estimate as to how much of that $30 million that is not collectible from anyone is for care provided to residents of the District?

Mr. BROWN. Well, the $30 million figure I mentioned is total, and I would estimate, I don't know the exact figures, but I would estimate that over 50 percent of that is from the District of Columbia, probably closer to 60 percent.

We do see patients from Maryland and we see patients from Virginia.

Mr. **Dixon**. You get no reimbursement of any kind from the District for that service?

Mr. **Brown**. Not for the—the only payments we get from the District other than that small grant I mentioned is medicaid payments.

CHILDREN'S HOSPITAL AND D.C. GENERAL HOSPITAL

Mr. **Dixon**. And are you the only hospital that provides this kind of service, I mean specializing in children? Does D.C. General also have a unit that specializes in children?

Mr. **Brown**. In some cases D.C. General has programs that overlap with ours. In many cases when you get into the high level care, then we are the primary facility in the region that provides that care.

If you are talking about cardiovascular surgery or extra corporeal membrane oxygenation, some of those programs we would be the regional center for that.

ADMISSIONS CRITERIA

Mr. **Dixon**. How does an indigent patient gain entrance to your hospital?

Mr. **Brown**. Well, patients come to us in different avenues. Some patients are referred by physicians.

Mr. **Dixon**. I would imagine that most of your indigent patients are not referred to you by physicians?

Mr. **Brown**. In most cases you would be correct, but in many cases they are because they are not able to admit that patient another hospitals who refuse to take patients who can't pay.

Mr. **Dixon**. That is what I am getting at. Is it your policy to accept anybody that walks through the door?

Mr. **Brown**. Yes, sir; we do. We accept all patients without regard to their ability to pay. We have a screening program that we work with the parents, and if they have resources we tell the parents we expect them to pay.

If they have limited resources, then we use some of the same guidelines that the District of Columbia uses in deciding how much they should pay, if anything.

PEDIATRIC EMERGENCY FACILITY

Mr. **Dixon**. And do you operate an emergency facility for children?

Mr. **Brown**. Yes, sir; we have an emergency medical trauma center that is the pediatric trauma center for the District of Columbia and for the southern region of the State of Maryland, and this last year we saw about 56,000 visits through our emergency medical trauma center.

Now, not all of those were trauma, but many were, and probably about 55 to 60 percent of our admissions to the hospital come through our emergency trauma center.

Mr. **Dixon**. Do you plan to request funds this ear through Mr. Natcher's Appropriations Subcommittee on Labor, Health and

Human Services or any other subcommittee with the exception of the Treasury, Postal Service Appropriations Subcommittee?

Mr. **Brown**. No, sir; that is the only committee that we have appeared before.

Mr. **Dixon**. But you haven't appeared before Mr. Natcher's committee or any committee on the Senate side?

Mr. **Brown**. No, sir.

Mr. **Gallo**. Mr. Chairman?

Mr. **Dixon**. Mr. Gallo.

Mr. **Gallo**. I have to go downstairs, but I would like to ask some questions.

Mr. **Dixon**. Sure.

CONGRESSIONAL BASEBALL GAME

Mr. **Gallo**. First of all, I want to congratulate Children's Hospital for the work you do. I know in some small way the Republicans and Democrats donate, through the baseball game, and I can tell you that is a very dedicated contribution.

Many of us need the services offered, but you are to be commended and obviously the community has recognized the need and also has confidence in what you have been trying to do and continue to do.

The problems we have here are the problems of dollars, and all I can say is that I will look your proposal over. When we deliberate we will have to make some hard decisions, but I just want to express my support for what you are doing.

Mr. **Dixon**. Senator Adams.

Senator **Adams**. I have two questions.

PRESIDENT'S BUDGET REQUEST

Did you ever make a request to the administration for funding that would come up in the President's budget as an item?

Mr. **Brown**. No, sir.

NATIONAL CHARACTER OF CHILDREN'S HOSPITAL

Senator **Adams**. I ask you that because the second question is, would you describe for me what makes Children's National Medical Center, which would be the basis by which you would request funds from an administration?

Mr. **Brown**. OK. Well, to begin with, we are in the Nation's Capital, and I believe that makes us unique. Many of our pediatric colleagues across the country look to us to set standards, and they look to us for guidance, that many look to us to be active in our advocacy role because we are in proximity to the Capitol.

We have established programs, such as Dr. Kanda's program which is a national program. Dr. Kanda conducts a conference every 2 years that is national in scope and attended by thousands of people.

Our trauma program certainly has that reputation, and people come from all over the country to discuss how to set up pediatric trauma programs.

We started a program called ECMO, extra corporeal membrane oxygenation, where babies, who basically other than having defective lungs at birth are basically healthy, about 90 percent of those babies were dying before we started this treatment, and that has now been modeled across the country numerous——

Senator **Adams**. The only reason I inquired is the same reason that the chairman and Mr. Gallo have, and that is it often helps if we have an administration request at some point. It is supportive, and it gives us an opportunity. I am familiar with childrens work from years ago. Many years ago, before you moved to your new building, my daughter had shoved a peanut up her nose. There were very good emergency procedures. And though we paid for it, there was no question that every doctor in the city we talked to said to go over to your place, that your doctors would figure out how to get it out.

I didn't realize this was so serious. I am very supportive of your program. I have a little bit the same problem that the chairman does of how we become a functional part of assisting you unless we establish a national medical basis as a reason for it and have some administration comment on it. So we would appreciate it if you could maybe give us a little piece of paper on that.

Thank you, Mr. Chairman. I have no further questions.

FEDERAL FUNDING AND CONSTRUCTION TIMEFRAME

Mr. **Dixon**. Mr. Brown, let me ask you one other question. I think you used the figure of $19.8 million that you are looking for?

Mr. **Brown**. Yes, sir; over 3 years.

Mr. **Dixon**. That was my next question. How soon do you plan to start on this project? In other words, even if this committee were to provide some money, it certainly couldn't guarantee a 3-year commitment. Are you breaking ground and starting immediately on the project or are you going to raise the money first?

Mr. **Brown**. We have already started our preliminary planning. It is our intent to launch our fundraising side of this in December at our annual meeting, and so the ideal situation would be to have a flow of dollars from Congress and a flow of dollars coming in from the community over a multiyear period that would enable us to go ahead and get this whole project and process started.

Senator **Adams**. Mr. Chairman, I think I cut off Mr. Lierman who had a comment.

STATEMENT OF TERRY LIERMAN

Mr. **Lierman**. As the volunteer chairman of the Research Institute, who really as my mentor was your mentor, Warren Magnuson, is the one who got me interested in research. Research ties these together. Without the strong research program, the services and the treatments won't really fit together well.

Research is part of this program as with the trauma and with the child abuse, and without it, because of the indigent care question that the chairman raises, we can't do it.

It is too expensive. I think we have to have that as a part of an important element of the program. As a volunteer in the community that has luckily had three healthy children, I can tell you that

Children's Hospital is the kind of security blanket for all of us, and I would appreciate anything we can help you with.

NEED FOR RESEARCH PROJECT ON CRACK EPIDEMIC

Senator ADAMS. Mr. Chairman, I wanted to echo that. I just used a personal example, but I am very concerned about the effect of the crack epidemic on children. We have seen this in Seattle. I have been through the wards and there has to be a research project some place in this Nation directed toward that problem because we are not solving it in our area, though we are putting a lot of money into it just as they are.

These children are experiencing an entirely different type of abuse and an entirely different type health problem than we have ever seen before in this country. Thank you very much, Mr. Chairman.

Mr. DIXON. Mr. Brown, we will see what we can do this year. You have several members of this subcommittee who are very supportive and have talked to me about it, and I will make by best effort.

Mr. BROWN. Thank you very much, sir.

PUBLIC SCHOOLS AND COURTS

D.C. SCHOOLS PROJECT AND THE AFTER SCHOOL KIDS PROGRAM

STATEMENT OF REV. HAROLD BRADLEY, S.J., SPECIAL ASSISTANT TO THE PRESIDENT, GEORGETOWN UNIVERSITY

Mr. DIXON. Next we have Reverend Bradley from Georgetown University. How are you today, Reverend Bradley?

Reverend BRADLEY. Fine, Mr. Chairman.

I generally begin my testimony by saying I am not Father Collins, and I am not Father George, and then let me say I will submit this for the record.

Mr. DIXON. Let me get on the record. I was just asking, it just rang a bell with me that Fred Israel has discussed his relationship with you.

Reverend BRADLEY. His son worked for us. That is the way we can get people to understand what we do.

Mr. DIXON. We have before us the Reverend Harold Bradley, who is the special assistant to the president of Georgetown University. He is here on behalf of two programs called D.C. Schools Project and the After School Kids, or ASK, Program.

Father, you can proceed.

Reverend BRADLEY. I am also embarrassed to ask for your help on this because they are both very small programs. The D.C. Schools Program cost us about $80,000 a year to administer, and with that money we organize 300 students who tutor approximately 300 rcently arrived immigrant children in the city. Then the ASK Program is for juvenile offenders.

The Juvenile Offenders Program works with the court system at the invitation of Judge Urbena. We started this program. The young people are actually sentenced to this program instead of incarcerated. We run that program for about $160,000 a year. We always have 60 Georgetown students and community volunteers who work one on one with young people who have been sentenced to that program instead of being incarcerated.

Now, the District and the school board for one program and the court system for the other helped us by supporting them in the beginning. For the last 2 years, the District has been unable to support these programs. I am in the position that at the university they say to me, well, look, if nobody in the District is interested in supporting the programs, how can you tell us that they are good programs?

Mr. DIXON. That seems logical. I was going to ask you the same thing.

Reverend BRADLEY. Well, so, really, I don't want to take any of your time, but I would like a recommendation from your committee that the District—the two different agencies—seriously consider supporting these programs again. Let me say that for the D.C. Schools Project we had a grant from the Jesse Ball DuPont Foundation to extend it to other cities, and it is now at 12 other universities, and supported by the cities in those 12 other places, but we can't get support.

I don't want to come here—as I said——

Mr. DIXON. Father, I understand. Let me ask you a couple questions. The school program is $80,000, and the court program is——

Reverend BRADLEY. On-hundred sixty thousand.

Mr. DIXON. One-hundred sixty thousand. Now, has the District or the Board of Education evaluated your program and figured that they didn't want to spend the money or——

Reverend BRADLEY. No, no; they just have said that given the limited resources they have they can't support it.

D.C. SCHOOLS TUTORIAL PROGRAM

As I say, they supported it—let's just talk about the D.C. Schools Program. The School Board Program supported that—well, the superintendent of schools gave us the money twice.

Mr. DIXON Is that Floretta McKenzie?

Reverend BRADLEY. It was. I just would like to point out that Mrs. McKenzie said to me, look at the wonderful job you are doing in the D.C. Schools Program, why don't you do something for the black youth in the city, because the D.C. Schools Program obviously——

Mr. DIXON. And this is a tutorial program?

Reverend BRADLEY. Yes, sir.

Mr. DIXON. Of D.C. students that are in the public schools?

Reverend BRADLEY. In other words, we don't tutor any student who is not recommended by his or her teacher and his or her principal, so we are not out doing good. The principal calls us and says, you know, we would like to have one of your volunteers come here.

We get calls from families saying why are other people getting tutored and we don't. And our answer is, we don't know. Go talk to your teacher.

AFTER SCHOOL KIDS PROGRAM

Mr. DIXON. And for the $160,000, does Judge Ugast make the referrals?

Reverend **Bradley**. Judge Ugast makes the final decision, but we started the program when Judge Urbena was responsible for the family, whatever that is, Family Division of the court, and Judge Urbena is a Georgetown alumnus, and so I can put certain guilt feelings on him, you know.

Mr. **Dixon**. How long did the court system fund that program?

Reverend **Bradley**. Two years.

FUNDING FOR TWO PROGRAMS

Mr. **Dixon**. OK. And so the total that you are talking about is——

Reverend **Bradley**. It is absurd to come here and take your time with that.

Mr. **Dixon**. But it is $240,000?

Reverend **Bradley**. Yes, sir; but it has to come from different budgets, correct?

PREPARED STATEMENT

Mr. **Dixon**. Senator Adams, any questions?

Senator **Adams**. No; I have no questions.

Mr. **Dixon**. Thank you very much. We will see what we can do.

[The statement follows:]

STATEMENT OF REV. HAROLD BRADLEY, S.J.

Mr. Chairmen and members of both Subcommittees, I am Father Harold Bradley, S.J., Special Assistant to the president of Georgetown University and Director of the Center for Immigration Policy and Refugee Assistance and the Academy for Intercultural Training.

I wish to report to your Subcommittees on two long-standing programs at Georgetown University which are making a cost effective contribution to the District's response to two critical situations: the integration of recently-arrived immigrant children into the public school system (the D.C. Schools Project) and the encouragement of juvenile offenders to continue their education (the After School Kids - A.S.K. Program). Detailed information about each effort is attached. The programs have enabled these young people who, for various reasons, are marginal to our society to prepare for more productive participation in the economic, social, and political life of the District of Columbia.

These two programs offer tutoring and social support for school-aged children in the District of Columbia. The programs provide a structured framework for Georgetown University students, alumni and community volunteers to serve as role models and advocates for recently-arrived immigrant children and adjudicated delinquent youths who live in Washington's inner city. The tensions and prejudices that exist between the immigrant and Black children in their common neighborhoods continue to escalate as a result of increased drug trafficking, battles for neighborhood "turf" and distorted stereotypes each group perpetuates about the other.

To ease the tension between these groups, we have developed the Alliance for Community Enrichment (ACE), which brings together the youths from the D.C. Schools Project and the After School Kids (ASK) Program. ACE is intended to bridge the gap between these two populations of youth, through recreational activities, cultural exchange and community service projects that compel them to work together towards improving their neighborhoods.

Both programs are committed to providing each youth with the skills and attitudes necessary to living full and productive lives. Through individualized academic support, youths are encouraged to play an active role in their own education, empowering them to take responsibility for their success and motivating them to look towards the future with established, realistic goals. The support they receive is academic and social: each program assists individuals in finding counseling, job placements, and other self-esteem building activities. We have discovered through these programs that the youths are eager for assistance and motivation in academic and vocational pursuits but their normal social support system cannot access these opportunities.

Since these young people will be entering the work force in the next few years, it is imperative to teach them that they possess the capability to become contributing members of their community. This goal can be reinforced through guidance and support that provides each youth with individual attention and encouragement vital to his or her own sense of self-worth.

Despite the success of the D.C. Schools Project, the D.C. Public School System has failed in the past two years to provide funding for this program and is poised to do so again for Fiscal Year 1991. We have reached a critical juncture. The University cannot continue to provide full interim funding. Unless the District resumes providing a share of the cost of the Program, the project will be forced to shut its doors. To continue to respond to the growing demand from the community, we are asking again that the District of Columbia contribute $80,000 toward the D.C. Schools Project which reaches more than 300 students annually in the public schools.

We are also requesting that the District of Columbia contribute the $160,000 necessary for the ASK Program during the next fiscal year. As we stand prepared to provide vital assistance to more youthful offenders, in the height of the battle against drugs, the District must reverse its policy of reducing its funding for this project. Spending $160,000 or less than $2,000 per year per child for the ASK Program is far more cost-effective than nearly $4 million dollars or upwards of $50,000 per year per child for their incarceration.

In the name of the Reverend Leo O'Donovan, S.J., President of Georgetown University, we thank you for the opportunity to appear before your Subcommittees.

D.C. SCHOOLS PROJECT

In recent years the number of limited and non-English speaking students in the D.C. Public Schools system has significantly and steadily increased. Currently more than 9,800 students (nearly one-eighth of total enrollment) in the public schools claim a language other than English as their first. The influx of recently arrived students continues to strain the system's resources.

These children face considerable obstacles to completing and succeeding in their school careers. Most of the students received little or no formal education in their country of origin. Economic problems in the home pressure many to enter the work force prematurely. For those coming from rural communities in the developing world, the adjustment to urban North American life is often traumatic. They are suddenly faced with the traumas of the inner city: drugs, violence, teenage pregnancy, etc. Adjustment is often complicated by emotional and psychological problems stemming from political violence in their native countries and the rigors of a harrowing migration. Familial separation is yet another factor. Only 32 percent live with both parents and 35 percent live with neither parent. The problems facing these children and their schools require careful attention and prompt intervention if they are to be overcome.

In response to this situation and to supplement the efforts the school system, Georgetown University's Center for Immigration Policy and Refugee Assistance initiated the D.C. Schools Project in January 1984. Working in conjunction with the Bilingual Education Division of the District of Columbia's public schools system, this program brings together University volunteers with limited and non-English speaking students in the public schools. Since its inception over 1800 Project volunteers have assisted nearly 1900 students. While most volunteers are Georgetown University undergraduates, the balance includes University alumni, local professionals, and area high school students.

The D.C. Schools Project assists these students in three ways. First, the volunteer tutors the students in English acquisition and usage, providing the student with individualized attention that is not available in the crowded classroom. Second, the volunteer acts as a role model and friend to the student, encouraging development of self-esteem. Activities and special events are an integral part of the program and provide added opportunities to develop a strong tutor-student relationship. In many cases the volunteer is the student's only contact with a native English speaker outside the school. Third, the volunteer serves as a liaison between the recently arrived family and the various human service agencies in the community.

Each year over 300 volunteers and more than 300 students participate in four programs designed to involve the tutors in many different aspects of tutoring English As a Second Language (ESL).

The ONE-TO-ONE Program, the Project's largest, brings volunteers into the student's homes two nights per week. Volunteers in the IN-SCHOOL Program tutor twice weekly in a local elementary or junior high school under the supervision of the District's ESL teachers. In the SATURDAY Program, students meet their tutors on the Georgetown University campus for academic tutoring and structured field activities.

Older students who have benefited from Project assistance and excelled in their ESL classes tutor younger, more limited students in the PEER-TUTORING Program. Both the tutors and the students improve their English, and the tutors develop leadership skills and a sense of responsibility.

In 1987 the Jessie Ball duPont Religious, Charitable and Educational Fund recognized the D.C. Schools Project as an outstanding volunteer program. It awarded Georgetown University a grant of over $140,000 to replicate the Project at twelve other colleges and universities nationwide. Pilot programs modeled on the D.C. Schools Project have been initiated at Alverno College (Milwaukee, WI), Brown University (Providence, RI), Canisius College (Buffalo, NY), the Catholic University of America (Washington, DC), Fairfield University (Fairfield, CT), Fordham University (Bronx, NY), George Washington University (Washington, DC), Southern Methodist University (Dallas, TX), University of Colorado at Denver (Denver, CO), University of San Diego (San Diego, CA), University of San Francisco (San Francisco, CA), and University of Texas at San Antonio (San Antonio, TX).

The D.C. Public Schools System contributed $50,000 in 1987 and again in 1988 to the D.C. Schools Project. Despite its cost effectiveness and its success with this critical population of children in the D.C. schools, the District has failed to provide funding in 1989 and now in 1990. We have recently been informed that they also do not intend to provide funding for Fiscal Year 1991. While the University has provided interim funding, it cannot continue to do so. Without restoration of District support, this project - a model now in many cities around the nation - will be forced to shut its doors. It is inconceivable that the District would turn its back on a proven project that provides so much for so relatively little. We are asking only that the District resume providing a share of the cost. To continue the program and to meet the growing needs in the community, we will request again a grant of $80,000 for Fiscal Year 1991.

The D.C. Schools Project demonstrates that volunteer community service projects, by forging a partnership between the university and the public school system, can supplement the school system's own efforts to deal with the needs of the immigrant student population. Providing approximately 15,000 hours of tutoring per year, as well as administration, the Project is a strong example of cost effective delivery of critical services. Georgetown University is proud of its part in the D.C. Schools Project and reaffirms its commitment to working with the District and with the newly initiated programs around the country to address this continuing need.

AFTER SCHOOL KIDS (ASK) PROGRAM

The After School Kids (ASK) Program was developed in February 1987 as an alternative to incarceration for juvenile offenders in the District of Columbia. Since its inception, the ASK Program has worked with approximately two hundred juvenile offenders between the ages of nine and eighteen; currently there are forty youths enrolled in the program. Although the D.C. Superior Court probation Division is our sole referral agency, the staff continues to encourage friends and relatives of current program participants to attend regularly. Eighty five percent of the youths referred to the ASK program have been arrested on at least one drug charge. Presently, all but two of the youths participating in our program are African-American youths, demographics that mirror the general population of juvenile probationers in Washington, D.C.

As stated in the preceding summary, ASK has identified several problems characteristic of the population that the program serves. Neighborhood violence, often the result of the lucrative business of illegal drug trafficking, school failure, poor self-esteem, weak family structures, a disillusioned community and the lack of positive role models, undermines the typical ASK youth's ability to live successfully in the community. In response to the seriousness of these problems as well as the Program's commitment to address the need for aggressive intervention in the lives of high-risk youth, ASK continues to adhere to the following goals:

a. to assist each youth in successfully completing his/her probation, by matching him/her with an appropriate volunteer who serves as a role model and advocate;

b. to prevent the reoccurrence of behavior that brought program participants in contact with the juvenile justice system;

c. to assist the youth in achieving success;

d. to expose each youth to cultural differences and differing ideas through contact with volunteers, an on-going speakers series, cultural events in the Washington area and field trips to historic places along the East Coast;

e. to assist each youth in his/her development of job and social skills in the community setting; and

f. to build self-esteem in each youth by defining goals and assisting in their attainment through the provision of individualized support systems.

Because of the dramatic increase each year in the number of drug-related cases referred to ASK since 1987, the ASK Program is implementing activities, such as group discussions and an educational component directly focused on the effects of illegal drug use and sales. Drug education is now viewed as one of the most critical aspects of the After School Kids Program.

Through the ongoing support of the Academy for Intercultural Training (AIT) at Georgetown University, ASK continues to benefit from the participation of several churches, community centers and universities in working towards the above stated goals. These campus and community resources provide ASK with volunteers that are matched with probationary youth two evenings each week for tutoring, self-esteem building and advocacy. Most importantly, many of our volunteers and supporting agencies have extended themselves beyond the eight hour commitment that is expected, to actually planning and implementing many evening and/or weekend activities. These activities include workshops for leather crafts, photography, computer activities and career planning.

Throughout the year, ASK staff and volunteers attempt to increase the cultural awareness of the participants by bringing them to theaters, speeches and other events around the District. For character development and increased self-esteem, the youths also participate in weekend camping trips, rock climbing expeditions, athletic matches and other challenges that require individual initiative and group interaction. Many of these trips are coordinated with the help of American and International Youth Hostels and the Outward Bound Program.

The majority of ASK participants have responded positively. Statistics reinforce our belief that individualized programming, structured and supervised evening activities, accompanied by strong academic and social support are imperative services. As indicated by the attached statistical listing prepared in August 1989, fifty-six percent of ASK program youth completed probation while participating in the program. While particiapting in ASK, ninety-two percent have not been rearrested. The aggressive intervention that the ASK Program provides is vital to successful reintegration into the community and prevention of further court involvement among this population of youth.

When the program began in 1987, ASK received $160,000 through the District Court system to serve fifty offenders. Since the 1987, District funding has continued to decrease, despite the success of the program and its increasing ability to respond effectively to this special population. With its current expertise, ASK is now capable of serving eighty youths yearly at a total cost of $160,000.00 ($2,000.00 per youth per year). In contrast to the annual estimated cost of incarceration which can be as much as $50,000.00 per youth per year or a total of nearly $4 million dollars, this is a cost effective program that serves a much needed role in the community. Thus we are requesting a grant of $160,000 for the ASK Program for Fiscal Year 1991.

The success of the ASK Program stems from our basic belief that individualized attention is the key to helping youths change the quality of their lives as well as their visions of the future. With ongoing funding we will continue to work toward this goal ; however, increased funding will allow us to expand to meet the needs of more youth in the District of Columbia.

After School Kids(ASK)
Former Participants Table (Statistics)
As Of August 30, 1989

TOTAL NO. OF FORMER PARTICIPANTS		SIXTY (60)
Probation completed successfully - No Rearrests	47	
Probation completed successfully - Rearrests	6	
Probation completed unsuccessfully - No Rearrests	3	
Probation completed unsuccessfully - Rearrests	6	
Probation completed marginally - No Rearrests	9	
Probation completed marginally - Rearrests	4	
Youth removed from ASK while on probation - No Rearrests	9	
Youth removed from ASK while on probation - Rearrests	19	
Youth rearrested while in the ASK Program	11	
Youth placed in ASK pending disposition - Committed to DHS	13	
Probation Revoked	4	
Probation transferred out-of state	3	

TOTAL NO. OF YOUTH WHO COMPLETED PROBATION WHILE IN ASK		SEVENTY-FIVE (75)
No Record of Rearrest	59	
Record of Rearrest	16	

TOTAL NO. OF YOUTH REMOVED FROM ASK		FORTY-EIGHT (48)
No Record of Rearrest	9	
Record of Rearrest	19	
Youth placed in ASK pending disposition - Committed to DHS	13	
Probation Revoked	4	
Probation transferred out-of state	3	

TOTAL NO. OF YOUTH REARRESTED WHILE IN ASK	ELEVEN (11)

TOTAL NO. OF YOUTH WHO COMPLETED PROBATION WHILE IN ASK	SEVENTY-FIVE (56.0%)
TOTAL NO. OF YOUTH REMOVED FROM ASK	FORTY-EIGHT (36.0%)
TOTAL NO. OF YOUTH REARRESTED WHILE IN ASK	ELEVEN (8.0%)
TOTAL NO. OF FORMER PARTICIPANTS	ONE HUNDRED THIRTY-FOUR (8%)

STATEMENT OF JOHN BUGG, D.C. CAB DRIVER

Mr. **DIXON**. Next we have John Bugg, who is a D.C. taxicab driver. Welcome, Mr. Bugg.

Mr. **BUGG**. Thank you, sir.

Mr. **DIXON**. Do you have a prepared statement or some notes?

Mr. **BUGG**. No, sir; I have a few notes. Excuse me for coming unprepared, but I got this letter today in the mail. It was dated for today, and so I just came down here.

Mr. **DIXON**. The mails are slow, are they?

Mr. **BUGG**. Yes, sir.

Mr. **DIXON**. All right, Mr. Bugg, you are here. We would be pleased to hear your comments.

Mr. **BUGG**. Yes, sir; I would like to start off by thanking everybody, thanking you for allowing me to come here in the first place, and I would like to point out some of the main problems with the taxi industry in Washington, DC, because the taxi industry in Washington DC, the drivers are like ambassadors.

We are the first people that they see when they come here and we are the last people they see when they leave, so at this point we feel kind of bad because we are unable to present ourselves well. When I say present ourselves well, I am talking about decent taxi cabs, decent whatever, whatever we need to use in the industry, and the reason for all of this and this embarrassment we have to go through day in and day out is because the District government system that governs the taxicab industry have not done their job.

They have been sitting down on—at that D.C. Taxicab Commission going into the fourth year now, and nobody has stabilized this industry. When I say stabilized the industry, I mean mainly brought the financial part of taking care of expenses up to where the driver can present itself well, if you please.

Mr. **DIXON**. Does that mean that you would like to see them initiate another rate increase?

Mr. **BUGG**. Well, rate increase is one thing, sir. It is like throwing good money at bad. When you start talking about we are going to just increase the fares across the board, we are talking about taking a deep look inside of the industry itself as to what—how it is structured and where the money is going once the driver makes the money in the street.

For instance, in the last 7 years our insurance alone, that insurance sticker we buy, has gone up 64.8 percent as opposed to our increases or gratuities or whatever, growing less than 6 percent.

That has nothing in this world to do with your 7 years ago your mechanic was getting $35 an hour, now he is getting $50 an hour.

NEED TO OVERHAUL TAXICAB SYSTEM

In general, I am saying that you are going to have to overhaul the whole system from the zone map because you can't afford to buy a brand new car whether you put enough money in the system or not to take a person from here over to Blackie's House of Beef for $2.65, so what I am saying is we can continue to throw money at the system, and the system itself was designed for failure.

We are going to have to take a look, and hopefully we can get your committee to do the honors for us to look into this thing cause it is more than just saying we are going to give or grant the taxi drivers some money so he can maybe buy a new car and maybe take care of his family better.

We are talking about the safety of the riding public because I know personally with my taxi business, sometimes I need tires on my car and I can't buy them, and I know that sometimes maybe you should have went to the shop and got my brakes fixed yesterday, you know.

It is quite a few things, but in general we need to overhaul this whole system, and it is going to hurt quite a few people, mainly the taxi cab companies because the taxi cab companies, they are like mom and pop stores. They have goods and services that taxi cab drivers use, and after careful study and consideration, everybody that we have talked to in this industry has come up with the fact that the revenue has been kept low so that those people could stay in business, and that is where the money seems to be going at this particular time.

So what we would like very much to do, and I will speak from—we turned in a petition to—I am from Maryland, and we turned in a petition to Mr. Steny Hoyer, and it was addressing itself to this same problem. We need somebody to investigate this taxi industry and put it on a sound footing.

We need to stabilize this industry because right now it is like a slave plantation. We are working, but we don't see the money, you know. Bills just wipe you out, and we don't have—we do not have enough money, you know, at the end of the week to start off Monday morning with any money at all.

Now if you are in any kind of business you know you must go to the bank with some type of money in order to——

Mr. DIXON. Stay in business?

Mr. BUGG. Yes, sir.

D.C. TAXICAB COMMISSION

Mr. DIXON. Let me ask you, the comments that you are making, aren't they better addressed to the Taxi Commission itself? I think that is what they were created to do.

Mr. BUGG. Yes, sir; you are right. I was one of the people—I worked with a group called the Last of the Taxicab Business in Washington, DC, and I was one of the persons that formulated and fought for the implementation of this particular Taxicab Commission, because at that particular time we were under about nine different regulatory agencies, and these nine different regulatory agencies, they just played football.

They threw the ball. It is not mine. It is his responsibility, so we thought that once you brought this thing under one umbrella, we would be able to point it at somebody, and you are correct, you are absolutely correct. These people, these are the same people that I am speaking of that have been sitting in place for the last, like I say, 24th of this month will be 3 years, and——

Mr. DIXON. Do you monitor their activities quite often?

Mr. BUGG. Yes; we do. All meetings that they allow us to come into, we go to all of the meetings, and we saw fit to get affiliated with the Communication Workers of America, and we have one—this lady that is our steward, she is always there, and she has a tape recorder, and other means.

Mr. DIXON. Is your frustration—I mean obviously there must be some frustration because you are here today.

Mr. BUGG. Yes, sir.

Mr. DIXON. Is it that you don't think the commission is moving fast enough on addressing issues in the industry?

Mr. BUGG. The commission is—the commission is not moving fast enough, and the commission just doesn't understand what a taxi industry is all about.

Mr. DIXON. Do you know Ms. Key?

Mr. BUGG. Ms. Carrolena Key.

Mr. DIXON. She has been on the commission from the very beginning. She is now the chairperson.

Mr. BUGG. She is a nice person, but she don't—see, a taxicab business is a hands-on business. You can't go—they don't teach it anyplace. You have got to—this is what we talked to the City Council about in the beginning. This is why we had that little fight down the hill because it is a real hands-on business. You cannot go to no university or college to learn the taxi industry, and we said we should have at least 5 of the 12 experienced taxicab drivers on this commission.

Mr. DIXON. You have four from the industry, but not drivers?

Mr. BUGG. Yeah, but see, the four people that you have from the industry have no knowledge of this taxicab industry. Well, one, Mr. Yale Lewis. The other three, Mr. Wright, Ms. Medinia, and Mr. London, these three people don't have no knowledge whatsoever of what this business is all about.

They are nice people, but, you know, they don't have no knowledge what it is all about. When you talk to them, the only way they can relate to taxicabs is like I was standing on the corner and this cab passed me up. You know, that don't make the business-work.

At this particular time I would like to ask you to look into this thing to see why can't you have at least five experienced, I mean people that have been proven themselves in the business itself, not necessarily me, but people, that have been in the industry and know the fine workings of the industry, and this is where we are at this point.

Mr. DIXON. Well, the commission has come up and testified, and I indicated to them that I would like to sit down and talk to them about the slowness in which they are making decisions. So I will voice some of your concerns and hopefully get a response back.

Mr. BUGG. Yes, sir.

Mr. DIXON. OK. Any questions?

REGULATION OF TAXI INDUSTRY

Senator ADAMS. I just have one.

Do you want to go back to a regulated industry?

Mr. BUGG. When you say regulated, exactly what?

Senator **Adams**. Well, the way we used to do it when I started in this business 25 years ago, where everybody was required to have a license and the commission regulated what the rates were and regulated what the equipment was and regulated who got in and out of the business, and the cabs all ran very clean and very nicely. But they were said to be noncompetitive and they were also said to keep the little man out.

They sure ran well because I used to ride them in the District of Columbia. I don't anymore.

Mr. **Bugg**. Well, when I first got into the industry, sir, this was—we had the finest fleet of cabs in this town, in the world.

Senator **Adams**. But it was regulated.

Mr. **Bugg**. OK, but as far as I know we are still related, you know. I mean, the D.C. Taxicab Commission is a regulatory agency, isn't that correct?

Mr. **Dixon**. You still have to get a license and do all that?

Mr. **Bugg**. Yes, sir.

Mr. **Dixon**. But they don't award a franchise or any exclusive franchise now?

Mr. **Bugg**. No.

Mr. **Dixon**. Anybody who wants to be an owner-operator——

Senator **Adams**. You can't regulate 1,000 individual cabs. You can regulate maybe 10, 15 companies. You can hold them responsible. You can require them to put tires on. You can do a lot of things. That is the only reason I asked you.

I am not saying that is what you want to go back to, but a lot of us have been around a long time in this business and know a little something about transportation.

You have got one or you have got the other.

Mr. **Bugg**. Let me ask you the question this way, since you put it like that.

You see, you are talking about two different businesses when you are talking about the taxicab company and the taxicab driver himself, because we both fill out our own individual business income tax. I am responsible for mine and he is responsible for his, so I am not his employee. So I would hate to get involved with him in my business and I can't see what he is doing on the other side of the coin.

And I would like very much to be able to do just the free enterprise type thing we are doing right now. It is nice, but the difference back there was the industry was stabilized.

Senator **Adams**. That is what you asked, and I told you how you could get it. I was asking you whether you wanted it.

Mr. **Bugg**. No, sir; we don't want to——

Senator **Adams**. I am not going to harass you.

LETTER AND MATERIALS

Mr. **Dixon**. Thank you very much, Mr. Bugg, for coming up. I am going to follow though on some of those things.

Mr. **Bugg**. Yes, sir; I appreciate it. Thank you, sir.

[The information follows:]

LETTER FROM JOHN BUGG

June 22, 1990

B. Timothy Leeth
Professional Staff Member
Subcommittee on the
District of Columbia
United States Senate
Committee on Appropriations
Washington, DC 20510-6025

Dear Mr. Leeth:

During my oral testimony before the Senate Subcommittee on the District of Colubmia, I voiced my concerns about taxi cab insurance policies and the potential for major problems for the taxi cab owner and the public.

Adequate and available insurance is a must for the taxi cab industry. I along with members of the Capitol Cab Cooperative Association, Inc. are concerned that recent events by certain members of the Co-op may be putting the Co-op and the public at undue risk.

Enclosed are copies of documents which are of concern to us in this situation. We have attempted on several occasions to get answers to our questions but have been unable to do. Our questions are:

(1) How much money is there in the Capitol Cab Cooperative Association Inc. insurance fund. How is administered? What bank etc.

(2) What advantage is there to transferring the Co-op insurance program to Capital Cab Casuality?

(3) Why can't we get copies of the minutes of the Co-op directors meeting authorizing the purchase of the Capital Cab Casualty stock using Co-op funds?

(4) Who owns the Capital Cab Casualty stock? Who gets the funds for the stock?

We bring these matters to your attention because of concerns for protecting the members of the Co-op and the sinking fund, which we believe has more than a $700,000. We are also concerned that adequate insurance is available to protect the public.

I hope you can look into this for us and get some answers to our questions.

Thank you very much.

Sincerely,

John Bugg

LETTER FROM ALLEN R. THOMPSON, PRESIDENT, COOPERATIVE ASSOCIATION, INC.

January 19, 1990

Ms. Margurite C. Stokes
Superintendent of Insurance
Department of Consumer and Regulatory Affairs
District of Columbia Government
Post Office Box 37200
Washington, D.C. 20013-7200

Re: Capital Casualty Insurance Company, Inc.
Application for Certificate of Authority

Dear Ms. Stokes:

In supplementation of the pending Application for Certificate of Authority of the above named insurance company, a certified copy of corporate resolution authorizing the purchase of all the capital stock of Capital Casualty is enclosed.

Accordingly, since Capital Casualty has but a single owner, this is also to request exemption from compliance with the requirements of the Holding Company Act for that reason (D.C. Code Section 35-2001,et seq.).

In accordance with legal requirements, the sale and distribution of "Stickers" evidencing insurance coverage shall be conducted by a separate cooperation. This new entity shall be licensed by the Department of Insurance Agency as a policy writing agency and shall retain and employ at least one licensed policy writing insurance agent.

We hope that this submission together with other documents separately filed will satisfy all outstanding evidentiary requirements in order that the pending Application may be ruled on.

Very truly yours,
Capitol Cab Cooperative Association, Inc.

Allen R. Thompson,
President

CAPITOL CAB COOPERATIVE ASSOCIATION, INC.

RESOLUTION OF THE BOARD OF DIRECTORS

The following resolution was adopted at a meeting of the Board of Directors of Capitol Cab Cooperative Association, Inc. on February 27, 1989:

"WHEREAS, the greater benefit of the members of Capitol Cab Cooperative Association, Inc. would be promoted by the ultimate abandonment of the sinking fund mode of casualty insurance coverage for members and replacement by a separate casualty insurance carrier, to be owned by the Association, and

"WHEREAS, a corporate entity known as Capital Casualty Insurance Company, Inc. has been established under the laws of the District of Columbia, for this purpose, and

"WHEREAS, as a vehicle for such independent operation it is necessary that appropriate funding be furnished in order that casualty insurance carrier licensure under the laws of the District of Columbia may be applied for; be it

"RESOLVED, that the President of this Corporation be authorized to deliver a check in the amount of $600,000 as full consideration for the purchase of all authorized shares of capital stock for Capital Casualty Insurance company upon receipt of a stock certificate therefor, and thereafter to deliver a further check payable to said Company in the amount of $100,000 as gross paid-in and contributed surplus."

CERTIFICATE

THIS IS TO CERTIFY that all applicable provisions of the DISTRICT OF COLUMBIA BUSINESS CORPORATION ACT have been complied with and accordingly, this CERTIFICATE of **INCORPORATION** is hereby issued to

CAPITOL CASUALTY INSURANCE COMPANY

as of **AUGUST 9TH , 1988** .

Donald G. Murray
Director

Henry C. Lee, III
Acting Administrator
Business Regulation Administration

Vandy L. Jamison, Jr
Assistant Superintendent of Corporations
Corporations Division

Marion Barry, Jr.
Mayor

ARTICLES OF INCORPORATION

CAPITOL CASUALTY INSURANCE COMPANY

TO: Corporations Division
Department of Consumer and Regulatory Affairs
614 H Street, NW
Washington, D.C. 20001

We, the undersigned natural persons of the age of 18 years or more, acting as incorporators of a corporation under Title 29, Chapter 3 of the Code of Laws of the District of Columbia, adopt the following Articles of Incorporation for such Corporation:

FIRST: The name of the corporation is

CAPITOL CASUALTY INSURANCE COMPANY

SECOND: The period of its duration is perpetual.

THIRD: The purpose or purposes for which the corporation is formed include:

To make all kinds of insurance against loss of or damage to goods, merchandise or other property caused by fire, risks of transportation, or navigation, the action of the elements or adverse manifestations of nature, and on automobiles against loss or damage from collision or theft and against liability of the owner or user for injury to person or property caused by his automobile; as well as all and every risk or peril to which the subject of insurance may be exposed, against which it is not contrary to public policy to insure, including every insurable interest therein or in the use thereof, or profit or income therefrom, or legal liability therefor.

FOURTH: The aggregate number of shares which the corporation is authorized to issue is One Thousand (1,000) common capital shares, without subdivision into classes, each share having par value of One Dollar ($1.00).

FIFTH: The preferences, qualifications, limitations, restrictions and special or relative rights in respect to each share are: None.

SIXTH: The corporation will not commence business until at least One Thousand Dollars has been received by it as consideration for the issuance of shares, as initial capitalization.

SEVENTH: The provisions limiting or denying to shareholders the pre-emptive right to acquire additional shares of the corporation are: None.

EIGHTH: The provisions for the regulation of the corporation are such by-laws as the Board of Directors may adopt.

NINTH: The number of directors constituting the initial board of directors of the corporation is seven, and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and shall qualify, are:

Mr. William J. Wright	768 Irving Street, N.W. Washington, D.C. 20010
Mr. Allen R. Thompson	238 Jefferson Street, N.W. Washington, D.C. 20011
Mr. Isaiah F. Anderson	3936 Ames Street, N.E. Washington, D. C. 20019
Mr. John H. Word	808 Nicholson Street, N.E. Washington, D.C. 20011
Mr. Nehemiah Jones	2110 Gaither Hillcrest Heights, MD 20031
Mr. Walter Martin	517 Kenyon Street, N.W. Washington, D.C. 20010
Mr. Wallace Robinson	4210 Brooks Street, N.E. Washington, D.C. 20019

TENTH: The address of the initial registered office of the corporation is: 4308 Georgia Avenue, N.W., Washington, D.C. 20019, and the name of the initial registered agent at such address is: Isaiah F. Anderson.

The address where it conducts its principal business is the same as its initial registered office.

ELEVENTH: The name and address of each incorporator is:

Edward Jasen, Suite 301, 1015 Spring Street,
Silver Spring, MD 20910
Stephen Smith, 7600 Georgia Avenue, Suite 100,
Washington, D.C. 20012
Marilyn Grover, 7600 Georgia Avenue, Suite
100, Washington, D.C.

Incorporator

Incorporator

Stephen L Smith
Incorporator

CERTIFICATE

THIS IS TO CERTIFY that all applicable provisions of the DISTRICT OF COLUMBIA BUSINESS CORPORATION ACT have been complied with and accordingly, this CERTIFICATE of **DISSOLUTION** is hereby issued to

CAPITOL CASUALTY INSURANCE COMPANY

as of **FEBRUARY 28th, 1989**

Donald G. Murray
Director

Henry C. Lee, III
Administrator
Business Regulation Administration

Vandy L. Jamison, Jr
Assistant Superintendent of Corporations
Corporations Division

Marion Barry, Jr.
Mayor

ARTICLES OF DISSOLUTION

CAPITOL CASUALTY INSURANCE COMPANY

TO: Corporations Division
Department of Consumer and Regulatory Affairs
614 H Street, NW
Washington, D.C. 20001

We, the undersigned natural persons of the age of 18 years or more previously acting as incorporators of a corporation known as CAPITOL CASUALTY INSURANCE COMPANY under Title 29, Chapter 3 of the Code of Laws of the District of Columbia, now adopt the following Articles of Dissolution for such Corporation and state:

1. The name of the Corporation is CAPITOL CASUALTY INSURANCE COMPANY.

2. Its certificate of incorporation was issued as of August 9, 1988.

3. None of its shares have been issued.

4. The corporation has not commenced business.

5. No amount has been paid in on subscriptions to its shares.

6. No debts of the corporation remain unpaid.

7. All the incorporators elect that the corporation be dissolved.

Edward Jasen

Edward Jasen
Incorporator

Stephen L Smith

Stephen Smith
Incorporator

Marilyn Grover

Marilyn Grover
Incorporator

Date: Feb. 27, 1989

VERIFICATION

The undersigned hereby declare and affirm, under penalties of perjury, that the facts contained in the foregoing Articles of Dissolution are true to the best of their knowledge, information and belief.

Edward Jasen

Edward Jasen

Stephen L Smith

Stephen Smith

Marilyn Grover

Marilyn Grover

CERTIFICATE

THIS IS TO CERTIFY that all applicable provisions of the DISTRICT OF COLUMBIA BUSINESS CORPORATION ACT have been complied with and accordingly, this CERTIFICATE of **INCORPORATION** is hereby issued to

CAPITOL CASUALTY INSURANCE COMPANY

as of **FEBRUARY 28th, 1989** .

Donald G. Murray
Director

Henry C. Lee, III
Administrator
Business Regulation Administration

Vandy L. Jamison, Jr
Assistant Superintendent of Corporations
Corporations Division

Marion Barry, Jr.
Mayor

ARTICLES OF INCORPORATION

CAPITOL CASUALTY INSURANCE COMPANY

TO: Corporations Division
Department of Consumer and Regulatory Affairs
614 H Street, NW
Washington, D.C. 20001

We, the undersigned natural persons of the age of 18 years or more, acting as incorporators of a corporation under Title 29, Chapter 3 of the Code of Laws of the District of Columbia, adopt the following Articles of Incorporation for such Corporation:

FIRST: The name of the corporation is

CAPITOL CASUALTY INSURANCE COMPANY

SECOND: The period of its duration is perpetual.

THIRD: The purpose or purposes for which the corporation is formed include:

To make all kinds of insurance against loss of or damage to goods, merchandise or other property caused by fire, risks of transportation, or navigation, the action of the elements or adverse manifestations of nature, and on automobiles against loss or damage from collision or theft and against liability of the owner or user for injury to person or property caused by his automobile; as well as all and every risk or peril to which the subject of insurance may be exposed, against which it is not contrary to public policy to insure, including every insurable interest therein or in the use thereof, or profit or income therefrom, or legal liability therefor.

FOURTH: The aggregate number of shares which the corporation is authorized to issue is One Thousand (1,000) common capital shares, without subdivision into classes, each share having par value of One Dollar ($1.00).

FIFTH: The preferences, qualifications, limitations, restrictions and special or relative rights in respect to each share are: None.

SIXTH: The corporation will not commence business until at least One Thousand Dollars has been received by it as consideration for the issuance of shares, as initial capitalization.

SEVENTH: The provisions limiting or denying to shareholders the pre-emptive right to acquire additional shares of the corporation are: None.

EIGHTH: The provisions for the regulation of the corporation are such by-laws as the Board of Directors may adopt.

NINTH: The number of directors constituting the initial board of directors of the corporation is seven, and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and shall qualify, are:

Mr. William J. Wright	768 Irving Street, N.W. Washington, D.C. 20010
Mr. Allen R. Thompson	238 Jefferson Street, N.W. Washington, D.C. 20011
Mr. John H. Word	808 Nicholson Street, N.E. Washington, D.C. 20011
Mr. Nehemiah Jones	2110 Gaither Hillcrest Heights, MD 20031
Mr. Walter Martin	517 Kenyon Street, N.W. Washington, D.C. 20010
Mr. Wallace Robinson	4210 Brooks Street, N.E. Washington, D.C. 20019

Mr. Isaiah F. Anderson 3936 Ames Street, N.E.
Washington, D.C. 20019

TENTH: The address of the initial registered office of the corporation is: 4308 Georgia Avenue, N.W., Washington, D.C. 20019, and the name of the initial registered agent at such address is: Allen R. Thompson.

The address where it conducts its principal business is the same as its initial registered office.

ELEVENTH: The name and address of each incorporator is:

Nehemiah Jones, 2110 Gaither,
Hillcrest Heights, MD. 20031
John H. Word, 808 Nicholson Street, N.E.,
Washington, D.C. 20011
William J. Wright, 768 Irving Street, N.W.,
Washington, D.C. 20010

Nehemiah Jones
Incorporator

John H Word
Incorporator

William J. Wright
Incorporator

Date: Feb 27 1989

CERTIFICATE

THIS IS TO CERTIFY that all applicable provisions of the DISTRICT OF COLUMBIA BUSINESS CORPORATION ACT have been complied with and accordingly, this CERTIFICATE of AMENDMENT is hereby issued to

CAPITOL CASUALTY INSURANCE COMPANY

NAME CHANGED TO:
CAPITAL CASUALTY INSURANCE COMPANY

as of MAY 23RD, 1989 .

Donald G. Murray
Director

Henry C. Lee, III
Administrator
Business Regulation Administration

Miriam Hellen Jones
Superintendent of Corporations
Corporations Division

Marion Barry, Jr.
Mayor

ARTICLES OF AMENDMENT

TO THE

ARTICLES OF INCORPORATION

OF

CAPITOL CASUALTY INSURANCE COMPANY

TO: Department of Consumer and Regulatory Affairs
Corporation Division
Washington, D.C. 20001

Pursuant to the provisions of Title 29, Chapter 3 of the Code of Laws of the District of Columbia, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is:

CAPITOL CASUALTY INSURANCE COMPANY.

SECOND: The following amendment of the Articles of Incorporation was adopted by the shareholders of the corporation on May 1, 1989 in the manner prescribed by the Code of Laws of the District of Columbia:

"THE SPELLING OF THE WORD "CAPITOL" IN THE NAME OF THE CORPORATION SHALL BE CHANGED TO "CAPITAL", SO THAT THE FULL NAME OF THE CORPORATION IS "CAPITAL CASUALTY INSURANCE COMPANY."

THIRD: The number of shares of the corporation outstanding at the time of such adoption was 1,000 and the number of shares entitled to vote thereon was 1,000.

FOURTH: The designation and number of outstanding shares of each class entitled to vote thereon as a class were as follows:

Class	Number of Shares
NONE	

FIFTH: The number of shares voted for such amendment was 1,000 and the number of shares voted against such amendment was NONE.

SIXTH: The number of shares of each class entitled to vote thereon as a class voted for and against such amendment, respectively, was:

Class	Number of Shares Voted	
	For	Against
NONE		

SEVENTH: The manner, if not set forth in such amendment, in which any exchange, reclassification or cancellation of issued shares provided for in the amendment shall be effected, is as follows: NO CHANGE.

EIGHTH: The manner in which such amendment effects a change in the amount of stated capital, or paid in surplus, or both, and the amount of stated capital and the amount of paid in surplus as changed by such amendment, are as follows: NONE.

Date May 5, 19 89

CAPITAL CASUALTY INSURANCE COMPANY
(Corporate Name)

(Corporate Seal)

BY William J. Wright
WILLIAM WRIGHT, PRESIDENT

Attest:

SECRETARY

PETITION TO THE SUPERINTENDENT OF INSURANCE

We the undersigned, all members of Capitol Cab Cooperative Association, Inc. (owners), want to maintain our "Sinking Fund" in its present form.

There is a petition before the Superintendent of Insurance to license the Capital Casualty Insurance Company on the strength of the Capital Cab Cooperative Association, Inc. and its present "Sinking Fund". That petition carries with it no evidence of the necessary documents guaranteeing our voting and monetary rights into the proposed independent insurance company.

1. Prospectus
2. Charter
3. By-Laws
4. Plan of Conversion

These documents have never been presented to the membership of Capital Cab Cooperative Association, Inc. for membership review and approval (vote).

NAME	ADDRESS	CAB NUMBER	YEARS OF PARTICIPATION	
[illegible]	7431 [illegible] St #177		9 yrs	187
R[illegible]	5411 5th St [illegible]		~~[illegible]~~ 381	4[illegible]
harles s [illegible]	224 Hamilton St [illegible]		32 yrs	27
Russell Sellers	[illegible] N [illegible] NE.		19 YRS.	97[illegible]
T. Powell	1300 Goodhope Rd. SE [illegible]		16 years	[illegible]
[illegible]	3[illegible] SE D.C.		[illegible] yrs	475
[illegible] Smith	[illegible] Sargent Rd Chillum [illegible]		11 Years	115[illegible]
[illegible]	[illegible]		[illegible]	9[illegible]7
[illegible]	70 Allison St NE 20011 DC		[illegible] yrs	28[illegible]
[illegible]	[illegible] NE [illegible]		34 yrs	[illegible]

ABORTION

STATEMENTS OF:

NELLIE J. GRAY, PRESIDENT, MARCH FOR LIFE

MICHAEL FOLEY, SECRETARY-TREASURER, D.C. RIGHT TO LIFE COMMITTEE

PREPARED STATEMENTS

Mr. DIXON. Next we have Nellie Gray, the president of March for Life, and we also have the D.C. Right to Life Committee represented by Mike Foley. He is the secretary-treasurer.

I don't know if Mr. Foley is here.

Ms. GRAY. He isn't here today. Unfortunately we just heard yesterday that we were going to testify today, so he was out of town.

Mr. DIXON. Ms. Gray, you have testified before us before. If you have any written testimony, we would be pleased to receive it for the record in its entirety. If you would like to highlight our statement, you have the opportunity now to make your oral presentation.

Ms. GRAY. Thank you, Mr. Chairman.

Before I begin, could I ask also if Mr. Foley may enter his statement, then, into the record?

Mr. DIXON. Surely. It shall be done.

[The statements follow:]

STATEMENT OF NELLIE J. GRAY

Messrs. Chairmen and Members of the Subcommittees, I am Nellie J. Gray, President of the March for Life, and also President of the D.C. Right to Life Committee, both of Washington, DC. Each of these corporations is a non-profit, non-partisan, and non-sectarian organization with the purpose of assuring that the value and dignity of each human being, born and preborn in existence when the father's sperm fertilizes the mother's ovum, shall be protected by the laws of our land. I am a full-time volunteer in the prolife movement, working with a staff of volunteers.

I come again to you today because of our organizations' long-standing and deep concern that there is a depreciation of the inherent value and dignity of born and preborn human beings, even supported by the action of our government through this Congress. Yet, you Members, in your role of parens patriae, have the power and authority to reaffirm the unalienable and paramount right to life of each human being. And then, in that same role, you have the responsibility to act to assure that our paramount right to life is protected, without any exceptions whatsoever.

The most prominent visible sign of callous disregard for the right to life in our Nation today is abortion—the homicide of born human beings killing a preborn human being, and many other persons and public officials cooperating in the homicide. Thus, this testimony is directed to the abomination of our country engaging in torturing and killing defenseless preborn children, which is but the bloody tip of the gross mentality of reducing human beings to materialistic and disposable property.

Messrs. Chairman, I have testified before your Subcommittees many times before, and the substance of my testimony is the same—stop using our tax dollars to torture and kill our preborn brothers and sisters in our Nation's Capital. I am pleased, of course, that last year the Congress, with the aid of our President, cut off most of the public funds used to slaughter thousands of innocent preborn children in the District. It was good to see that the Supreme Court in the Webster case repeated its words of previous cases that the state has an interest in prenatal human beings and may, by its spending power, favor childbirth over abortion. I ask that you now follow that course, and cut off all public funds used to kill even one preborn child through this D.C. Appropriations Bill.

Because I have testified many times before, I will not repeat all of that testimony, and I respectfully ask your Subcommittees to please refer to my 1980 testimony for information on subjects such as: "Congress Cannot Compromise the Life of a Preborn Human Being," "Government's Role is to Protect not to Kill Human Beings," and "ProLifers Tire of Red Herrings!" Then, I would like to make a few points here for your consideration.

HUMANITY OF THE PREBORN CHILD AT FERTILIZATION—PREBORN CHILDREN TORTURED AND KILLED BY ABORTION

My 1980 testimony and this today is based on the simple fact—not opinion—that each human being's life begins when the father's sperm fertilizes the mother's ovum, and at fertilization an unique human being exists who merely grows prenatally and postnatally until the time of death. The humanity of a preborn child at fertilization—only one cell big—is so well established in popular literature that anyone who continues to deny the humanity of a preborn child is engaging in intellectual dishonesty and culpable ignorance. That person is engaging in the same type of untenable arrogance as the slave-owner who denied the humanity of the black slave and the Nazi who denied the humanity of the non-Aryan.

And, abortion ends a child's life. Yes, we must understand that the abortionist's drugs and knives put into the body of a pregnant mother torture and kill the preborn child, whose life did begin at fertilization. If the preborn child were not alive and growing, the abortionist would have no interest in using drugs and knives on the preborn child's body in the pregnant mother's womb.

EQUAL VALUE OF BORN AND PREBORN HUMAN BEINGS—PERSONHOOD

However, even if some abortionists recognize the humanity of a preborn human being, they want to engage in a "value" decision, by saying that the preborn human being is not a "person," with value and dignity equal to that of a born human being.

And, in stubbornly learning nothing from history, the abortionist is repeating the fatal errors of slave owners and Nazis. The abortion-profiteer is engaging in the same type of untenable conduct as the slave-owner who, for mercenary and personal and political reasons, chose to treat the slave as a sub-human non-person; and the Nazi who chose to treat the non-Aryan as a sub-human non-person. The culpability of this conduct was established for all times in the principles laid down for the Nuremberg Trials—namely, that there is individual responsibility for these crimes against humanity, because each man knows that he may not kill an innocent human being, even if he is "only a 'good soldier' following the commands of his superior."

Personhood is vested in each human being at fertilization—our government does not bestow personhood on each of us; our government is charged with the responsibility of protecting the personhood of each born and preborn human being in equal measure. No exceptions; no compromises.

PEOPLE OF ILL-WILL FORCE CONFLICT

The evil of torturing and killing preborn children by abortion continues in our country because the abortionists hear but defy the voices of defenders of the preborn children. Abortion-profiteers want to continue with their money-making evil as long as they can try to cover-up their evil slaughter and make it look like a "respectable service to women." Please note history. People of ill-will continued to use the slave as a slave and treat that black man as sub-human until the Abolitionists forced the freedom of all of the slaves. Nazis continued to kill non-Aryans until the Allied Forces forced the Nazis to stop their tyranny and killing.

And, Messrs. Chairmen, I can assure you that the prolife movement shall stop the killing of even one innocent preborn child, and thereby also stop the trauma inflicted on that child's mother and father and our country. It would be well if your Subcommittees look to history and see that those who treated human beings as less than human created conflicts which they could not and did not win. People of good-will finally can tolerate no more of the horror of killing innocent human beings, and they rise to the defense of the human victims. That is what we saw when slavery was ended, the Holocaust was ended, and that is what you are seeing as prolife Americans rise up to end the horror of slaughtering preborn children in our country.

Thus, Messrs. Chairmen, I am here today to ask you to do what you can to stop the conflict. And, that is for you to assure that not even one penny of tax dollars is used to kill preborn children in the District of Columbia, the world capital of freedom. And, further, I ask that you not contribute to the conflict, as was done last year and again this year, by pitting the Executive Branch against the Legislative branch, and forcing the President to use the veto in order to cut off public funds used to kill preborn human beings in our Nation's Capital.

HOMICIDE IS NOT PRIVATE OR CHOICE

Killing an innocent preborn child is a homicide, and in our society homicide is a public act and not an act which may be exercised by choice as a right of privacy. A mother and a doctor and a Member of Congress traditionally have been the natural protectors of innocent preborn children. These protectors must not now become executioners, with Congress providing public funds for the abortion-profiteers.

HORROR IN THE DISTRICT OF COLUMBIA—OUR NATION'S CAPITAL—WHAT THE DATA INDICATE

Until fiscal year 1989, Messrs. Chairmen, the Congress and the President wrote a blank check to the government of the District of Columbia, so that our government had unlimited funds to torture and kill as many preborn children as they wished. Perhaps as much as $2 million was used each year for killing preborn children in the District of Columbia.

And, then there is more of culpable ignorance, because your Subcommittees do not even want to require an accounting of how the deadly dollars were spent—how many children were killed with the tax dollars you appropriated? How many abortionists, hospitals and abortatoria got how many tax dollar each year? Each year I have asked the House Subcommittee Chairman to get those figures for this record, as a matter of routine accountability and oversight for spending tax dollars. You still do not have those figures. Therefore, I have done the best I can as a volunteer, without your paid staff and power of public office. With my previous testimony, I included the names and addresses of abortionists who had been paid with tax dollars by the District government for killing preborn children. I expect you, Messrs. Chairmen, to update those data as a matter of carrying out your duty to account for the use of public dollars which you appropriate.

I attach to this testimony Statistical Note 87, dated June 1990, and Statistical Note 82, dated September 1989, prepared by the D.C. Department of Human Services, which report that almost 10,000 unjustifiable homicides of preborn children occurred among D.C. residents during 1988. Live births were also about 10,000, which means that one preborn child was tortured and killed by abortion for each preborn child permitted to be born alive.

Remember, these preborn children are not just dying, they are tortured and killed in abortatoria by people who administer the death penalty to innocent human beings under the cloak of respectability of the medical professions. This continues because the media does not report what a preborn child looks like after abortionists have exercised their "choice" to torture and kill, and because your Subcommittees will not look at abortion for the killing and horror that it is. Until October 1, 1988, public moneys apprpriated by your Subcommittees paid for much of this public slaughter.

What The Data Indicate. Statistical Note 87, Table 1, shows that between 1987 and 1988, abortions declined by about 120 and live births increased by 336, with gave the District of Columbia another 450 citizens. Let us hope that at lease some of these children were able to live because Congress cut off public funding for abortions on October 1, 1988. We note that the DC government states at the bottom of page 3 of Statistical Note No. 82 that restricting public funds for abortion did reduce the access of poor women to "the procedure." This is very encouraging, because Congress and District residents must want to assure that we do not reduce the welfare rolls by killing preborn children of poor women.

It is still alarming to see that teenagers are sexually violated and then participating in the killing of their own preborn children. The data show that about 2,000 women under the age of 19 had abortions. That means that the District of Columbia government has had reported to it that there were at least 2,000 incidents of statutory rape, by which women of tender years were sexually violated. Yet, we see no indication that the District of Columbia is aggressively trying to make any of those fathers who may be accused of participating in statutory rape accountable for violating a teenager. What we do see, however, is the wrong action of Members of Congress and the District government trying to use public funds to kill the preborn children of teenagers.

The bottom line figure still is: for each preborn child born alive to a District resident, another preborn child is tortured and killed by abortion-profiteers.

Reporting the Data. Again on page 4 of Statistical Note 82, the District government makes a plea for mandatory reporting of abortions in the District of Columbia. The data in these statistical notes are from voluntary reporting only. I hereby request that you Members responsible for fiscal matters of the District of Columbia, please provide a specific requirement for mandatory reporting of abortions as requested also by the District government.

HOME RULE IS NOT THE ISSUE

Heretofore, your Subcommittees have been trying to promote "Home Rule" as the reason that you will not tell the District of Columbia government what to do with "their" money. Does any member of your Subcommittees really want to go on record as stating that you are an impotent rubber stamp, who will appropriate public dollars exactly as the District tells you to? Of course not. You Members are grown men, who are professionals, and who are elected public servants. You know that you are the District's full and complete Fiscal authority—YOU appropriate all public moneys for the District of Columbia. YOU must decide not to use public moneys to torture and kill preborn children.

Here again, we are in the area of intellectual dishonesty and culpable ignorance when this untenable "Home Rule" issue is used by Members of Congress to hide behind their own wish to use public dollars to kill preborn children. It is arbitrary and unseemly to use the notion of Home Rule when you want to give moneys to kill preborn children, and ignore Home Rule when you want to dictate and control the City Council's and Mayor's spending habits in the District of Columbia. You Members of Congress tell the Mayor of the District of Columbia how many chauffeurs he may have, where and when to build the Jail and Convention Center, and when not to use taxi meters—you do all of this with the Appropriations Bill. Thus, your Subcommittees also have the responsibility to assure that innocent preborn children shall not be killed in abortatoria with public dollars from the D.C. government, and that the mothers and fathers of preborn children shall not be traumatized by abortion-profiteers.

Congress rightly uses the power of the purse to dictate and enforce on sovereign nations our own country's policy of respecting human rights. Thus, it is untenable to use the notion of "Home Rule" as a reason to permit the D.C. government in our Nation's Capital to violate the most basic human right, our unalienable and paramount right to life which is vested in each human being at fertilization. By the data provided in the Statistical Notes attached to this testimony, you are aware that the basic human right—the right to life—was violated by the paid executioners in the District of Columbia more than 10,000 times in 1988, and you not only refuse to do anything about the shedding of innocent blood, but also you want to use public dollars to pay for these crimes against humanity. We Americans decry the death squads used in some foreign countries, and we must also assure that Congress does not provide public funding for abortion-profiteering death squads to execute thousands of innocent and defenseless preborn children right here in our own District of Columbia.

CONGRESS USES PRESIDENT'S VETO TO SAVE PREBORN CHILDREN

You Members of Congress have the responsibility of saving preborn children, and not appropriating tax dollars to execute these innocent and defenseless children. Rather, you have abandoned your responsibility and forced the President to bear the full burden and use the powerful veto to save preborn children. Our Chief Executive has shown that he is willing to carry out his responsibility under very difficult circumstances. It is a shabby performance of Congress to deny the basic human right to life of preborn children and just let George save the babies.

WHAT IS NEEDED BY YOUR SUBCOMMITTEES—LANGUAGE FOR PROLIFE CARE

I am urging your Subcommittees to do what is right, proper and ordinary: just stop the use of all public moneys to torture and kill preborn children, and use our public moneys to assure that the District of Columbia provides equal care for both the pregnant mother and her preborn child.

Equal care for mother and child is merely what the medical profession is charged to do as a matter of good medical care. Therefore, to tell the medical profession to do its duty is not a matter of legislating on an appropriations bill. It is only a restatement of ordinary and reasonable care, and is used to be explicit and not vague in telling doctors that they may not kill preborn children in the District of Columbia. Suitable language for this D.C.Appropriations Bill is:

> None of the funds provided in this Act shall be used to perform abortions, and funds are appropriated for medical services necessary to prevent the death of a pregnant woman or her preborn child so long as every reasonable effort is made to preserve the life of each.
>
> (NOTE: Attached to my testimony last year, July 19, 1989, is an article from the 1985 March for Life Program Journal, giving more details of the "Equal Care and Protection Provisions" to assure that proper medical services are provided for both a pregnant woman and her preborn child.)

This language in the D.C. Appropriations Bill will save the babies, and I urge and expect you Members to appropriate the public funds necessary to feed, house, clothe, educate, and care for these children whom you save. Remember, please, that it is not cheaper for a society to kill a preborn child than to rear that child to adulthood—not cheaper by any standard or measure.

PROLIFERS' SADNESS

We prolifers are very saddened that elected officials in the United States Congress will run our Nation's Capital in such a way as to assure that innocent preborn human beings are tortured and killed here in record numbers.

We prolifers are very saddened that we cannot rely on adult, professional public servants to protect preborn children and their mothers and fathers. We are saddened that we have brought this information about the honors of abortion to you many times, and, yet, you have ears which do not hear and eyes which do not see and wills which do not respond to the "Silent scream" of children being tortured and killed and women whose bodies are violated in the most grotesque way and fathers who are denied rights of paternity.

The Anomaly is that your same Appropriations Committees provide funds for the "Holocaust" memorial, so that all of America can understand the honor of the Nazis and we can act responsibly to assure that "it shall never happen again." Yet, it is happening again, right here, and our Congress is accommodating and perpetrating the "American Abortion Holocaust." The Anomaly is that you Members of Congress will vote for commercial sanctions on a sovereign nation for its inhumane treatment of its own citizens, and will vote economic favors for abortionists in our Nation's Capital to kill thousands of innocent and defenseless preborn children. Are these anomalies the product of responsible adult men, professionals, or thinking and caring public servants. No. Rather, these anomalies bring into serious question the credibility and professionalism of elected public servants who perpetrate anomalies.

Prolifers' sadness comes because we must ask the question: "Why must we prolife volunteers bring these anomalies to the attention of Members of your Subcommittees and Members of Congress? Why cannot each Member act like adult, professionals, and good public servants and stop giving public tax dollars to kill preborn children? Why do Members of Congress, in accommodating abortionists, want to force conflict with policy and action which they know is wrong? It is crimes against humanity to kill preborn human beings and everyone knows it, and the Nuremberg Trials reiterated it. Why will Members of Congress not act responsibly and provide equal care and protection for born and preborn human beings, without forcing prolifers to constantly remind Members of Congress to act responsibly and save preborn children, their mothers and fathers and our country.

Messrs. Chairmen, I ask that you act properly and cut off all public funds for killing preborn children in the District of Columbia.

STATISTICAL NOTE 87

REPORTED PREGNANCIES AND PREGNANCY RATES IN THE DISTRICT OF COLUMBIA, 1984–1988 BY SARA T. GLENDINNING AND URBANE F. BASS III

INTRODUCTION

This report provides statistics on the pregnancies of District of Columbia women which were reported to the D.C. Department of Human Services (DHS) during the 5 year period of 1984–1988. Pregnancy outcome data is not available for District residents prior to 1984 when DHS collected less detailed statistics on the age and residence of women obtaining abortions in the District of Columbia. Population estimates of the number of women by age for each year used for computing rates were provided by the D.C. Office of Planning, Data Management Division.

The pregnancy outcome categories included in this report are live births, induced abortions, and fetal deaths of at least 20 weeks gestation. Fetal deaths under 20 weeks gestation and abortions not reported to DHS are not included. Abortion reporting is voluntary in the District of Columbia. DHS does not receive reports on abortions performed in private physicians' offices. Also, abortions performed on D.C. residents outside Washington, D.C. are not included. Therefore, the actual number of pregnancies of District of Columbia women during this 5 year period is greater than that reflected in this report.

PREGNANCIES

The 20,968 pregnancies reported to DHS in 1988 are 1 percent more than the 20,743 pregnancies reported in 1987. The pregnancy rate increased 2 percent, from 122.1 pregnancies per 1,000 women aged 15–44 years in 1987 to 124.7 in 1988. Although 1 percent fewer pregnancies were reported in 1988 than in 1984, the pregnancy rate increased slightly (from 123.9 in 1984 to 124.7 in 1988). Between 1987 and 1988, there was a 17 percent decrease in pregnancies reported for women under 15 years old resulting in a 19 percent decrease in pregnancy rate (20.3 in 1987 to 16.5 in 1988). The 1988 pregnancy rate of women 40 years and older was 14.7, 24 percent higher than their 1984 rate of 11.9.

LIVE BIRTHS

Live births to District of Columbia residents increased 3 percent between 1987 and 1988. The 10,514 births in 1988 were 10 percent more than the 9,549 births reported in 1984. The birth rate steadily increased during this 5 year period, going from 55.9 in 1984 to 62.5 in 1988. Eighteen percent of the 1988 live births occurred to mothers under 20 years of age. Mothers aged 20–29 accounted for the majority (53 percent in 1988) of the births. The 20–24 year old age group had the highest live birth rate in each of the 5 years studied.

INDUCED ABORTIONS

Reported induced abortions declined slightly (1 percent) between 1987 and 1988. Twenty-one percent of the 10,324 abortions reported in 1988 occurred among teenagers and 58 percent were performed on women in their twenties.

FETAL DEATHS

In 1988, 130 fetal deaths of at least 20 weeks gestation were reported. Twenty-eight percent of these fetal deaths involved women 20–24 years old compared to 18 percent of the reported fetal deaths in 1987.

SUMMARY

In 1988, 50.2 percent of the reported pregnancies ended in live births, 49.2 percent ended in induced abortions, and 0.6 percent ended in fetal deaths of at least 20 weeks gestation (Table 2). Figures 1a and 1b, depicting the percentage of reported pregnancies ending as a live birth or induced abortion, shows larger percentages of the reported pregnancies of women 20 years or older ending in a live birth in 1985, 1986, 1987, and 1988 compared to 1984. Approximately 42 percent of reported pregnancies of women under 20 years old ended in live births and approximately 57 percent ended in induced abortions over the 5 year period. In 1988 the proportion of reported pregnancies ending in a live birth varied from 26.5 percent for women under 15 to 61.9 percent for women 40 years and older. The proportion of reported pregnancies ending in an abortion varied from 36.8 percent for women 40 years and older to 72.5 percent for women under 15 years old (Figure 2).

Table 1.—NUMBER OF REPORTED PREGNANCIES AND PREGNANCY RATES BY OUTCOME OF PREGNANCY AND AGE OF WOMEN: DISTRICT OF COLUMBIA. 1984 - 1988[1]

Age of women	Reported pregnancies					Live births					Induced abortions[2]					Fetal deaths[3]				
	1984	1985	1986	1987	1988	1984	1985	1986	1987	1988	1984	1985	1986	1987	1988	1984	1985	1986	1987	1988
	Number																			
Total	21,165	19,464	20,191	20,743	20,968	9,549	9,840	10,043	10,178	10,514	11,473	9,502	10,028	10,444	10,324	141	122	120	121	150
Under 15 years	313	239	273	365	302	54	63	74	65	80	258	175	198	297	219	1	1	1	1	1
15-19 years	4,006	3,889	3,907	3,742	3,722	1,696	1,688	1,638	1,594	1,765	2,281	2,176	2,251	2,125	1,938	29	25	18	21	19
20-24 years	6,866	6,078	5,910	6,269	6,404	2,875	2,877	2,925	2,873	2,776	3,963	3,169	2,958	3,374	3,591	28	32	27	22	37
25-29 years	5,149	4,650	5,295	5,112	5,200	2,367	2,442	2,588	2,603	2,751	2,748	2,177	2,672	2,477	2,417	34	31	35	32	32
30-34 years	3,279	3,099	3,086	3,307	3,429	1,685	1,810	1,795	1,930	2,008	1,563	1,269	1,266	1,351	1,396	31	20	25	24	25
35-39 years	1,322	1,299	1,466	1,629	1,596	758	841	882	936	919	546	449	572	678	647	18	9	12	15	30
40 years and older	230	210	254	319	315	114	119	141	177	195	114	87	111	120	116	2	4	2	2	4
	Rate per 1,000 women																			
Total[4]	123.9	114.6	119.1	122.1	124.7	55.9	58.0	59.2	59.9	62.5	67.2	56.0	59.1	61.5	61.4	0.8	0.7	0.7	0.7	0.8
Under 15 years[5]	16.8	13.2	14.8	20.3	16.5	2.9	3.5	4.0	3.6	4.4	13.9	9.7	10.7	16.5	12.0	0.1	0.1	0.1	0.2	0.2
15-19 years	176.5	176.8	177.6	174.9	180.7	74.7	76.7	74.5	74.5	85.7	100.5	98.9	102.3	99.3	94.1	1.3	1.1	0.8	1.1	0.9
20-24 years	195.6	179.3	180.2	189.4	198.3	81.9	84.9	89.2	86.8	85.9	112.9	93.5	90.2	101.9	111.2	0.8	0.9	0.8	0.7	1.1
25-29 years	138.0	127.0	143.1	140.1	144.4	63.5	66.7	69.9	71.3	76.4	73.7	59.5	72.2	67.9	67.1	0.9	0.8	0.9	0.9	0.9
30-34 years	104.4	97.1	100.2	105.0	108.9	53.7	56.7	58.3	61.3	63.7	49.8	39.8	41.1	43.0	44.3	1.0	0.6	0.8	0.8	0.8
35-39 years	53.1	50.7	55.3	61.9	60.7	30.4	32.9	33.1	35.6	35.7	21.9	17.5	21.6	25.8	24.6	0.7	0.4	0.5	0.6	0.4
40 years and older /6	11.9	10.6	12.4	15.1	14.7	5.9	6.0	6.9	8.4	9.1	5.9	4.4	5.4	6.6	5.4	0.1	0.2	0.1	0.1	0.2

1/Unknown cases were distributed according to the reported age proportions.
2/Abortion reporting is voluntary in the District of Columbia. Only abortions performed in D.C. and reported to DHS are included in this table.
3/Number of fetal deaths, gestation 20 weeks or over.
4/Computed by relating the number of events to women of all ages to women aged 15-44 years.
5/Computed by relating the number of events to women under 15 years to women aged 10-14 years.
6/Computed by relating the number of events to women aged 40 years and over to women aged 40-44 years.

Table 2.--PERCENT OF REPORTED PREGNANCIES ENDING AS A LIVE BIRTH, INDUCED ABORTION, OR FETAL DEATH, BY AGE OF WOMEN: DISTRICT OF COLUMBIA, 1984 - 1988[1]

Age of women	Live births					Induced abortions[2]					Fetal deaths[3]				
	1984	1985	1986	1987	1988	1984	1985	1986	1987	1988	1984	1985	1986	1987	1988
Total......................	45.1	50.6	49.7	49.1	50.2	54.2	48.8	49.7	50.3	49.2	0.7	0.6	0.6	0.6	0.6
Under 15 years............	17.3	26.4	27.1	17.8	26.5	82.4	73.2	72.5	81.4	72.5	0.3	0.4	0.4	0.8	1.0
15 - 19 years.............	42.3	43.4	41.9	42.6	47.4	56.9	56.0	57.6	56.8	52.1	0.7	0.6	0.5	0.6	0.5
20 - 24 years.............	41.9	47.3	49.5	45.8	43.3	57.7	52.1	50.0	53.8	56.1	0.4	0.5	0.5	0.4	0.6
25 - 29 years.............	46.0	52.5	48.9	50.9	52.9	53.4	46.8	50.5	48.5	46.5	0.6	0.7	0.6	0.6	0.6
30 - 34 years.............	51.4	58.4	58.2	58.4	58.6	47.7	40.9	41.0	40.9	40.7	0.9	0.6	0.8	0.7	0.7
35 - 39 years.............	57.3	64.7	60.2	57.5	58.8	41.3	34.6	39.0	41.6	40.6	1.4	0.7	0.8	0.9	0.6
40 years and older........	49.6	56.7	55.5	55.5	61.9	49.6	41.4	43.7	43.9	36.8	0.8	1.9	0.8	0.6	1.3

1/Unknown cases were distributed according to the reported age proportions.
2/Abortion reporting is voluntary in the District of Columbia. Only abortions performed in D.C. and reported to DHS are included in this table.
3/Only fetal deaths of at least 20 weeks gestation are included in this table.

Fig. 1a. Percent of Reported Pregnancies
Ending as a Live Birth by Age
District of Columbia, 1984-1988

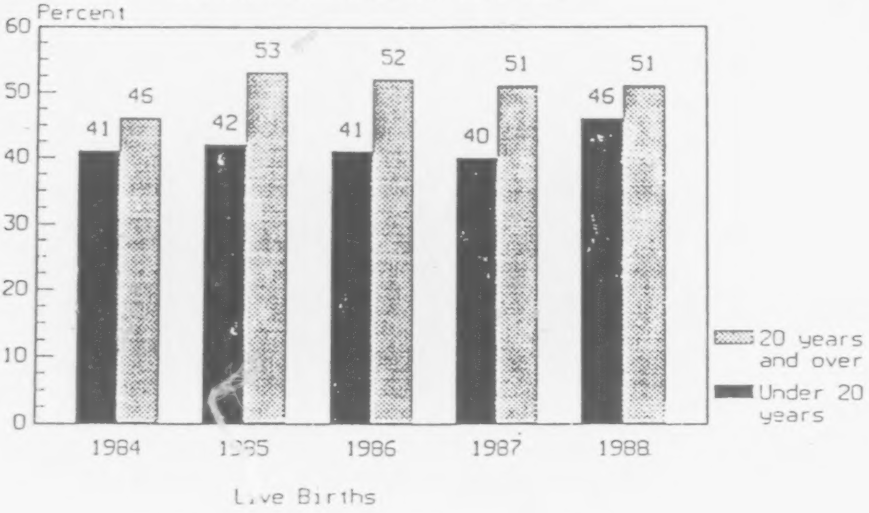


Fig. 1b. Percent of Reported Pregnancies
Ending as Abortion by Age
District of Columbia, 1984-1988

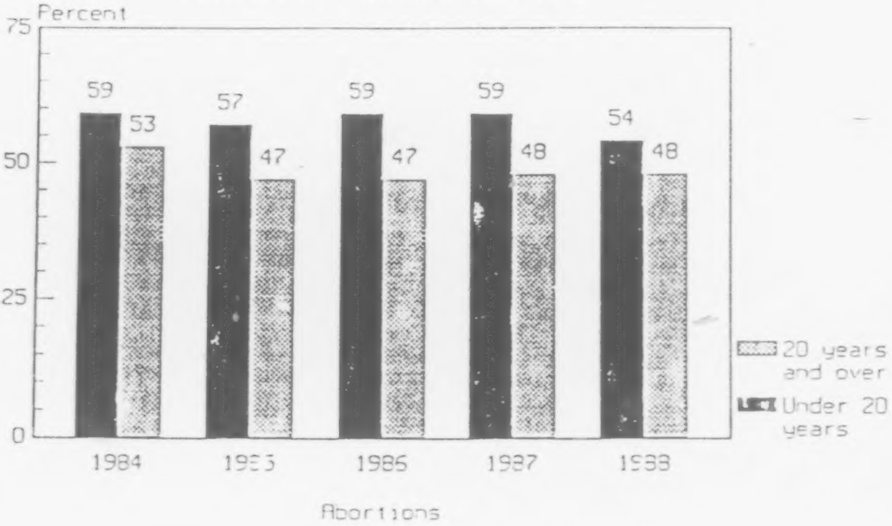
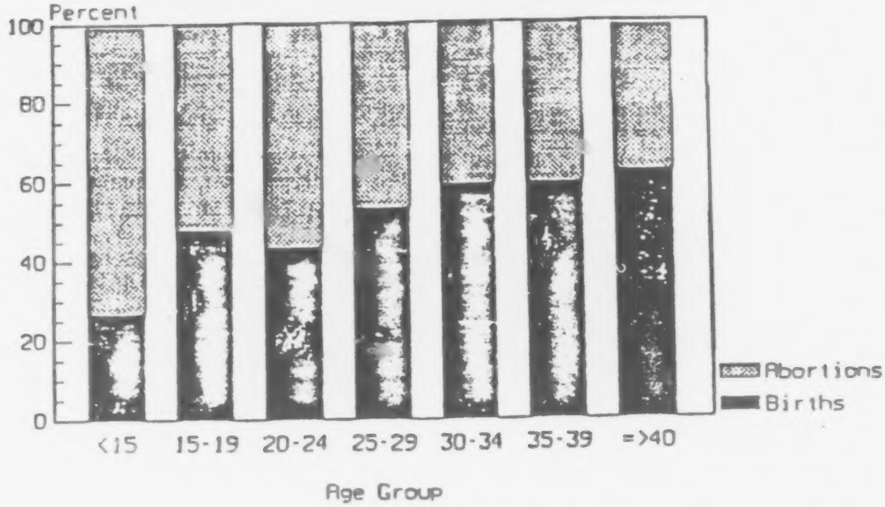


Fig. 2. Percent of Reported Pregnancies Ending as a Live Birth or Induced Abortion by Age of Women: D.C., 1988



STATISTICAL NOTE 82

INDUCED TERMINATIONS OF PREGNANCY (ABORTIONS) IN THE DISTRICT OF COLUMBIA: 1988 BY SARA T. GLENDINNING

The number of abortions performed in the District of Columbia in 1988 and reported to the D.C. Department of Human Services (DHS) was 20,822; 57 less than the 20,879 abortions reported in 1987. There were 95 more abortions reported for D.C. residents in 1988 than in 1987. However, when the 1987 and 1988 unreported residence cases are distributed according to the reported residence proportions, the number of abortions performed in the District on D.C. residents decreased slightly (1 percent) between 1987 and 1988.

In 1988, the percentage of pregnancies (abortions plus live births) for D.C. residents terminated by abortion was 49.5,[1] a 2.2 percent decrease from the 1987 percentage of 50.6.[1]

The abortion rate (abortions per 1,000 females 15–44 years of age) for D.C. residents decreased from 61.6 [1] in 1987 to 60.8 [1] in 1988, a 1.3 percent decrease. This rate had increased in 1986 and 1987 after declining each year from 1980 to 1985. At the same time, the fertility rate (births per 1,000 females 15–44 years of age) has increased steadily from 54.5 in 1980 to 61.9 in 1988.

Abortions in the District of Columbia are reported to DHS on a voluntary basis by hospitals and free-standing clinics. Their reports are confidential and DHS does not provide data on individual hospitals and clinics. In 1988, pregnancy termination reports were received from 14 facilities. This is one less than the 15 facilities reporting in 1987 due to the closing of one facility. DHS does not receive reports on abortions performed in the offices of physicians and those abortions are not included in the 20,822 total. According to the Alan Guttmacher Institute, 4 percent of abortions reported nationally in 1985 were performed in physicians' offices. If it is assumed that 4 percent of abortions in D.C. were performed in the offices of physicians in 1988, the total number of abortions performed that year would increase by 868 to 21,690.

Tables 2 thru 11 show the frequency distribution of various items. Cross tabulations of these items are not possible with the current reporting system as data are now reported in an aggregated form rather than on each individual abortion. In most cases the frequencies are for total reported abortions occurring in the District of Columbia and are not available for District residents alone. Some items of interest are:

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[1] In these computations 1987 and 1988 unreported cases were distributed according to the proportion of reported residence.

Half of the women obtaining abortions in the District were residents of the District of Columbia and almost one-third were residents of Maryland.

Of the abortions reported in the District in 1988, 20.4 percent were to women under 20 years of age and 53.4 percent were to women under age 25. According to a report by the National Center for Health Statistics (NCHS),[2] 24.6 percent of the abortions in 1986 reported by 13 states were to women under age 20 and 58.6 percent were to women under age 25. In 1988, 20.9 percent of District residents obtaining abortions in the District of Columbia were under 20 years of age and 55.7 percent were under age 25.

Almost four-fifths (78.9 percent) of the women obtaining an abortion in D.C. were not currently married and 65.1 percent had never been married. In the NCHS report, 78.6 percent of the women were unmarried.

In D.C., 44.6 percent of the women obtaining abortions in 1988 reported they had not had a prior abortion while the NCHS report showed 56. 3 percent of the women had no prior abortion. More than one-fifth (22.4 percent) of the women receiving abortions in D.C. in 1988 reported having had two or more previous abortions. The percentage of women reporting one or more previous abortions increased in the District in 1988 as shown on the following page:

Reporting previous abortions

Year	Percent
1988	55
1987	51
1986	49
1985	54
1984	48
1983	47
1982	44
1981	38
1980	32
1974	21

Most of the women receiving an abortion in D.C. (99 percent) were outpatients and suction curettage was the primary method of abortion in 98.1 percent of the cases.

Fifty percent of the abortions performed in the District were under 9 weeks gestation and 86.8 percent were less than 13 weeks gestation. The NCHS report shows 48.9 percent under 9 weeks and 89.5 percent less than 13 weeks gestation.

Complications were indicated on the reporting forms for less than one percent of the 1988 abortions performed in the District as well as for the abortions in the NCHS report. Only 0.3 percent (48) of the women receiving abortions in the District of Columbia in 1988 were reported to have been hospitalized due to complications resulting from their abortions.

The women obtaining abortions in the District of Columbia in 1988 tended to be young (under 25 years of age), unmarried, and to have had one or more previous abortions. These are the groups most in need of programs for the prevention of unplanned pregnancies.

In October 1988, Congress prohibited the District of Columbia from using local tax dollars to pay for abortions except in cases where the mother's life is in danger (District of Columbia Appropriation Act for 1989, Public Law 100-462). Prior to this, public funds had been used to pay for the abortions of District residents who met the Medicaid income standards. Laws restricting the use of federal and state Medicaid funds for abortion reduce the access of poor women to the procedure.

The District's voluntary system of reporting abortions results in incomplete reporting and therefore incomplete statistics. More than two-thirds of the states currently require the reporting of abortions. Mandatory reporting of pregnancy terminations would enable DHS to better inform the public on trends in births and abortions and would improve the department's ability to plan the delivery of health and family planning services in the District of Columbia.

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[2] National Center for Health Statistics: Induced Terminations of Pregnancy: Reporting States, 1985 and 1986. Monthly Vital Statistics Report, Volume 37, No. 12, Supplement, April 28, 1989.

TABLE I.—INDUCED ABORTIONS: TOTAL AND D.C. RESIDENTS, 1973–1988

Year	Abortions	
	Total	D.C. residents
1988	20,822	9,931
1987	20,879	9,836
1986	19,942	9,517
1985	19,541	8,627
1984	23,132	11,266
1983	22,867	11,775
1982	24,207	12,350
1981	25,952	13,014
1980	27,183	13,809
1979	28,694	13,611
1978	29,786	13,350
1977	29,545	12,718
1976	31,407	12,945
1975	31,519	13,621
1974	33,010	12,080
1973	40,812	10,019

TABLE 2.—ABORTIONS BY RESIDENCE, 1988

Residence	Number	Percent
Dictrict of Columbia	9,931	49.6
Maryland	6,265	31.3
Virginia	3,177	15.8
Other	657	3.3
Total	[1] 20,030	100.0

[1] Does not include 792 abortions with unreported residence.

TABLE 3.—ABORTIONS BY AGE AND RESIDENCE, 1988

Age (in years)	Total	District of Columbia	Maryland	Virginia	Other States	Not stated
Under 15	357	210	98	32	17	
15 to 19	3,746	1,863	1,091	667	113	12
20 to 24	6,622	3,451	1,872	1,030	250	19
25 to 29	4,942	2,323	1,624	828	156	11
30 to 34	2,871	1,342	1,054	367	98	10
35 to 39	1,280	622	436	206	15	1
40 to 44	229	97	84	40	5	3
45 and over	– 25	14	5	3	3	
Not reported	750	9	1	4	0	736
Total	20,822	9,931	6,265	3,177	657	792

TABLE 4.—ABORTIONS BY MARITAL STATUS, 1988

Marital status	Number	Percent
Never married	12,720	65.1
Currently married	4,120	21.1
Divorced	1,553	8.0
Separated	1,037	5.3

TABLE 4.—ABORTIONS BY MARITAL STATUS, 1988—Continued

Marital status	Number	Percent
Widowed	96	0.5
Total	[1] 19,526	100.0

[1] Does not include 1,296 abortions with unreported marital status.

TABLE 5.—ABORTIONS BY RACE, 1988

Race	Number	Percent
Black	11,87	57.5
White	5,730	28.7
Other	2,744	13.8
Total	[1] 19,961	100.0

[1] Does not include 861 abortions with unreported race.

TABLE 6.—ABORTIONS BY NUMBER OF PREVIOUS ABORTIONS, 1988

Previous abortions	Number	Percent
None	8,784	44.6
One	6,516	33.0
Two	2,766	14.0
Three or more	1,648	8.4
Total	[1] 19,714	100.0

[1] Does not include 1,108 abortions with unreported number of previous abortions.

TABLE 7.—ABORTIONS BY TYPE OF PATIENT, 1988

Type	Number	Percent
Inpatient	198	1.0
Outpatient	19,889	99.0
Total	[1] 20,087	100.0

[1] Does not include 735 abortions with unreported type of patient.

TABLE 8.—ABORTIONS BY PRIMARY METHOD, 1988

Primary method	Number	Percent
Suction curettage	19,709	98.1
Saline injection	295	1.5
Sharp curettage	81	0.4
Other methods	2	....
Total	[1] 20,087	100.0

[1] Does not include 735 abortions with unreported primary method of abortion.

TABLE 9.—ABORTIONS BY LENGTH OF GESTATION, 1988

Gestation (in weeks)	Number	Percent
Under 9	9,919	50.0
9 to 10	4,713	23.7
11 to 12	2,592	13.1
13 to 15	1,589	8.0
16 to 19	987	5.0
20 or more	47	0.2
Total	[1] 19,847	100.0

[1] Does not include 975 abortions with unreported lengthof gestation.

TABLE 10.—ABORTIONS BY COMPLICATONS, 1988

Complications	Number	Percent
Total complications	167	0.9
Resulting in hospitalization	48	0.3
Resulting in death		
Other	119	0.6
No complications	18,916	99.1
Total	[1] 19,083	100.0

[1] Does not include 1,739 abortions where complications were not reported.

TABLE 11.—ABORTIONS BY MONTH, 1988

Month	Number	Percent
January	1,951	9.7
February	1,810	9.0
March	1,965	9.8
April	1,819	9.1
May	1,648	8.2
June	1,736	8.7
July	1,717	8.5
August	1,611	8.0
September	1,591	7.9
October	1,341	6.7
November	1,408	7.0
December	1,490	7.4
Total	[1] 20,087	100.0

[1] Does not include 735 abortions performed at one hospital in the District of Columbia in 1988. This hospital did not provide data on the number of abortions performed by month.

STATEMENT OF MICHAEL FOLEY

Dear Chairman Dixon and Members of the Subcommittee: I regret that I was unable to attend the public hearing of the Subcommittee held late last month but I deeply appreciate this opportunity to submit this six page written statement which I have been told will be included in the published hearing record.

I submit this statement today as a representative of the D.C. Right to Life Committee, a nonpartisan, nonsectarian organization composed of citizens who reside in the District of Columbia and who are committed to the legal protection of preborn human beings. Today, in our nation's capital city, the most dangerous place for an unborn baby is in its mother's womb. What is most troubling, Mr. Chairman, is the knowledge that because of the actions of this Subcommittee, taxpayers in the District of Columbia are forced to pay for the deliberate and willful destruction of preborn babies. You may be assured that we continue to strongly object to this policy and we demand that it be reversed.

Knowing of your unswerving commitment to human rights, I knew that you would appreciate seeing photographs of some of the victims of abortion. These particular victims were killed in the Los Angeles area (your Congressional district) but we may be assured that the abortion victims here in the District look very much the same. As Chairman of this Subcommittee, you no doubt take great interest in seeing the tangible results of your actions. Mr. Chairman, I can assure you that I take no delight in placing these photographs before you. They are offensive and deeply troubling to any American—and they should be particularly troubling to one such as yourself who so often speaks out for the oppressed and less fortunate members of our society.

Today I ask you to open your eyes to the misery and injustice of abortion. See for yourself in these photographs the visible proof of the humanity of the preborn child now violently destroyed by abortion.

This Subcommittee's policy of forcing the citizens of the District of Columbia to pay for the destruction of thousands of innocent human lives sends a depressing and debilitating message throughout this city. Whatever social problems exist in Washington—real or imagined—abortion is no solution.

And so I call on you to remind you of your obligation to serve the best interests of this city. If you approve of the D.C. budget request as it is currently construed, you may do so only with the knowledge that you are appropriating funds with the express purpose of destroying human lives.

I would also like to say a word regarding the issue of home rule as you so often justify your actions on this basis. The citizens of the District of Columbia do not enjoy home rule. The existence of your Subcommittee is evidence enough of this fact. I have spent any number of hours watching your Subcommittee pour over, in great detail, the minutia of the District's budget. When you are displeased with a planned expenditure you show no reluctance to use your clout to force the elected representatives of the citizens of D.C. to amend their spending plans. Thus it is dishonest and unethical to claim that you are unwilling to intervene in the District's abortion spending plans on the basis of home rule.

Accordingly, the D.C. Right to Life Committee demands that you cut all abortion funding—both Federal and local—out of the D.C. budget.

STATEMENT OF NELLIE J. GRAY

Ms. GRAY. Thank you. Yes, Mr. Chairman, I have been here before, and our testimony is very much as it has been, unfortunately, for several years.

I am Nellie Gray, president of March for Life. Our corporation is a nonprofit, nonpartisan, and nonsectarian organization. We are interested in insuring the value and dignity of each human being, born and preborn, in existence when the father's sperm fertilizes the mother's ovum.

We are concerned with the value and dignity of life, and we find that probably the most visible sign of disregard for the right to life today is, unfortunately, abortion.

We see that our country and its Government and so forth is unfortunately actually engaging and participating in this torturing and killing of defenseless preborn children.

We were pleased last year when the *Webster* case came down simply to repeat what it had said in—what the court had said in previous words; that the State does have an interest in the prenatal human being and that it may, in its spending power, favor child birth over abortion, and therefore, we come again today to ask you to cut off all of the funds used anywhere in the District of Columbia for the killing of the innocent children.

I will refer to my own testimony of 1980, which was quite lengthy, and I just ask the committee to look at that for much of the detail. But our testimony is based on the simple fact, which is not an opinion but a fact that each human being's life begins' when the father's sperm fertilizes the mother's ovum, and the preborn child's life does end when a physician and all of those participating in abortion kill that innocent child.

Now, what we are seeing is there is a lack of understanding about personhood for that child, and the abortion profiteer is simply engaged in the same kind of untenable conduct of slave owners who, for political and personal reasons, treated their slaves as subhuman and nonpersons and Nazis did the same thing to non-Aryans, and unfortunately now we have our own country treating the innocent preborn children exactly the same way.

We do know that personhood is invested in each human being at fertilization, and our Government doesn't invest that personhood but rather is charged with the responsibility of protecting the person. No exceptions and no compromise.

But we have got this conflict now between the abortion profiteers and those of us who are trying to defend against the killing of the children and the abortion profiteers are trying to act as if slaughtering the children were indeed a respectable service to children. And what we are finding also in the conflict is the conflict between the legislative branch and the executive branch now, so that within our whole country, we are just seeing this terrible conflict as we would expect because a great evil is occurring of killing about 1½ million children.

These are homicides and they can never be called a private matter or a choice because killing a human being is indeed a public matter. In the District we have a true horror going on where at one time almost $2 million was used of our tax dollars for killing about 10,000 children, and now unfortunately we can't even still get an accounting, Mr. Chairman, which I would like so very much to be able to do.

Each year I come before the committee and tell you how difficult it is for me as a volunteer to try to get the data about just what is going on in the District of Columbia about killing the children, and I ask you please to, from your particular good office, to tell us what is being used with those tax dollars.

Now, as of October 1, 1988, we were able to cut off the dollars, and what we now need to be able to do is to see what does the abortion picture look like in the District of Columbia. The best that I could do for this testimony was to obtain statistical notes from the District, and they are both the yellow and the white pages attached.

From these statistical notes we see some very interesting things. One is that between 1987 and 1988 there was indeed a decline of about 120 abortions, and there was an increase in births of about 336, and we were hoping that perhaps that did reflect the lack of using public dollars for killing the children, and to us that looks very encouraging, and what we would like to then see is to be sure that the welfare roles for the District of Columbia would never be reduced by killing the children of poor women, but rather that we would be able to provide the moneys to be able to take care of those extra 500 people who have been born in the District.

The data also shows something else very interesting, Mr. Chairman. It shows about 2,000 women under the age of 19 had abortions. Now, that means there were at least 2,000 statutory rapes reported to the District of Columbia. Now, we see nothing in the

District of Columbia as an indication that there is concern by the government in doing something about the statutory rapes going on in our city.

There is an effort to try to get money to kill the children of teenagers, but there seems to be nothing to be able to help that teenager and to assure that the father bears responsibility for the fact of a statutory rape. What the data really comes down to is still, though, as a bottom line is that for each preborn child born alive to a District resident, one child is killed by abortion.

I do note on page 4, the statistical note 82, that the District government is pleading with Congress and the Government to require mandatory reporting on abortion, and if that would be possible, now all the data that we have are voluntary reporting by the clinics and the hospitals.

Mr. Chairman, I do want to highlight one important point; that when we discuss the abortion issue wherever we discuss it, certain in the District of Columbia, home rule is not the issue. It really doesn't make any difference where the sovereignty lies; that we know that the Americans here decry the death squads used in foreign countries, and we have no problem in withholding funds from foreign countries until they have a right and proper civil rights program.

And, yet, here in the District there is still, unfortunately, an effort to use money to kill these innocent preborn children, and then when the money come from the Congress, then we have to rely on the President to veto that, and we get more and more conflict.

What I would urge for the subcommittee is language for the appropriation bill. I have the text of the language in my testimony on page 5, and it simply asks that none of the funds provided in the act shall be used to perform abortion, and then it provides funds for equal—at the bottom of page 5.

And then what it does is to provide funds for equal care for both the mother and the baby, saying that we don't want moneys used for abortion. We do want the moneys used to provide equal care for a pregnant mother and her preborn child to try to assure that we do not have the death of either one of those innocent human beings.

Now, while the language, if we put that in the appropriation bill, would save the babies, we also want to encourage the Appropriations Committee to provide the funds necessary to feed, house, and clothe and provide the medical care and educate the children who would be saved.

I just want to reiterate the last page of my testimony again that prolifers are very sad about this, Mr. Chairman.

We just come year after year after year and I know you don't want to hear it and I don't want to come, and somehow we have to resolve this.

I know that it will be resolved in favor of life, just as all of the slaves were freed and all the Jews were freed from the Nazi Holocaust, there will be a time when all of the preborn children will be freed from abortion also, and what we want to do is hasten that day, work together with you, and where—I don't understand these things.

Congress provides money to provide a Holocaust memorial downtown saying that these atrocities would never happen, and yet the atrocity is happening in our country 4,000 times a day. Today, 4,000 babies will be killed by abortion. We don't have a memorial to those little babies and we don't have a memorial to that American abortion holocaust.

When we say never again, we mean no more killing of anybody, not just blacks, not just Jews, but everybody, including the preborn children, and so, Mr. Chairman, I would ask you please if you would provide the language in the appropriation bill, cut off all public funds for killing the children and provide equal care for the mother and the child.

Mr. DIXON. Thank you very much, Ms. Gray, for your testimony. As you indicate, you have been before the committee on at least one-half dozen occasions since I have been chairman, and I certainly appreciate your point of view. As you indicate my personal point of view is contrary to yours.

I think you recognize that although you brush aside the issue of home rule and say it is not a question of home rule, Congress or the House of Representatives has viewed this as a home rule issue.

Ms. GRAY. What I would respond, Mr. Chairman, though is that the home rule issue is not reflected in anything else that this committee does. You do tell the Mayor how many taxi cabs he can have. You tell what commission can go on. You tell how many police we can have or where money for the jail or the Convention Center.

The home rule issue is brought up only when it is trying to get funds to kill innocent preborn children. It is not brought up when the city government does, indeed, have views different from this committee on how to spend the money for the District of Columbia, so that by the Constitution and even the law setting up home rule for the District of Columbia, Congress itself retained full fiscal authority in this committee and full authority over the criminal justice system, so we do not have home rule in the District, and that this is one of the difficulties, to try to use home rule almost is a political football over innocent little preborn children who are being killed when home rule isn't used for other items in the budget.

Mr. DIXON. Mr. Gallo?

Mr. GALLO. I have no questions.

Mr. DIXON. Thank you very much, Ms. Gray, for coming today. Mr. Foley's testimony, if you have it with you——

Ms. GRAY. I don't have it with me.

Mr. DIXON. If he will just submit it to Mr. Miconi——

Ms. GRAY. What is the date by which it needs to be submitted?

Mr. DIXON. By the end of next week.

Ms. GRAY. Thank you, Mr. Chairman.

CABLE TELEVISION; EDUCATION; PENAL INSTITUTIONS

STATEMENTS OF:

RODNEY C. LIVINGSTON, D.C. RESIDENT

JOE PERSONS, D.C. RESIDENT

VALENCIA MOHAMMED, D.C. RESIDENT

Mr. DIXON. Next we have Mr. Rodney Livingston. Mr. Livingston is a D.C. resident and his subject today is cable television.

I don't know if you have anybody else with you to testify. I have three other names on my list.

Mr. LIVINGSTON. Yes; I do, but there are various topics. My specific one in the letter of request was for cable television.

Mr. DIXON. Is Mr. Joe Persons here?

Mr. PERSONS. Yes, I am.

Mr. DIXON. Mr. Persons, why don't you come forward. Are you going to testify on cable television or some other subject?

Mr. PERSONS. Education, sir.

Mr. DIXON. Is it Valencia?

Ms. MOHAMMED. Yes, Mohammed.

Mr. DIXON. You are going to testify on?

Ms. MOHAMMED. Education, recreation, and penal institutions in the District of Columbia.

Mr. DIXON. All right, and George Pope?

Mr. LIVINGSTON. George is not here.

Mr. DIXON. Mr. Livingston, we will take your testimony on cable television first.

PREPARED STATEMENT

Mr. LIVINGSTON. Thank you. I request that my testimony be entered into the record.

Mr. DIXON. It shall be.

[The statement follows:]

STATEMENT OF RODNEY LIVINGSTON

Good afternoon, I am here to bring to the committee what I believe are some major inconsistencies in the District government. My major concern is the Office of Cable TV, as well as other departments I address in my written statement. The OTC and PAC list numerous products, programs, equipment, and studio's all required by law, but cannot be found. Therefore I requested an audit of the OTC and PAC in early 1990, do to lost or stolen property, and a lack of product on the cable, and my affords to supply such programs. As of this date the OCT and the PAC have said they will not respond. And no other city office has honored the audit request. An example that comes to mind, is that the OTC and the city have a contract to train District residents as cable technicians, and to pay them for some part of the students' expenses, the school is free, and paid for by the District. Yet in two years the school (Orion, 1003 K St. NW #825) has no license to teach cable installation, from the FCC, District License Board, or any cable association. So people attend the school and have nothing on paper when they leave. SCTE and NCTI are cable associations. I hope you have some questions, so let me say in closing thank you, and please read my statement on why the District should not have statehood, and ways to relive that frustration. And better communication between the House committee and District residents is needed, many more persons would attend.

STATEMENT OF RODNEY LIVINGSTON

Mr. LIVINGSTON. I am here to bring to the committee what I think are some major inconsistencies in the District government. My major concern is the Office of Cable Television, as well as other departments I address in my written statement.

The Office of Cable Television lists numerous products, programs, equipment, studios, and other things that are required by cannot be found as of this date.

Therefore, in early 1990 I requested through the appropriate city offices that an audit be conducted. To this day the Office of Cable Television Public Access Corp. said they will not respond, nor has any other city office honored that request.

An example that comes to mind is that the District has a contract with the contractor and the Office of Cable Television to provide cable expertise, instruction, schooling, technical schooling to District residents, and this has been going on for about 2 years.

This school, to date, has no license from the licensure department of the District of Columbia, the FCC or any of the appropriate cable authorities that license cable schools. Therefore, anyone who graduates from this school, they have no paper, so they are in essence excluded from cable licensing businesses.

So I understand that I have 10 minutes. I would like to have some questions. What I would also like to say is if we can have an audit on demand through a mechanism or vehicle or instrument that the Congress can use since it has legislative jurisdiction over the District of Columbia, a lot of the work of this committee and the House committee and the Senate committee can be alleviated.

We can do the leg work. A number of witnesses have come here to testify various things, but as it stands our hands are tied. We need a little help from your committee.

Mr. DIXON. What is it—as I recall, the budget of the cable television is $1.7 million and it really comes from revenue——

Mr. LIVINGSTON. Five percent of the gross.

Mr. DIXON. What is the problem? Do you think the money is not being spent appropriately?

Mr. LIVINGSTON. The Office of Cable Television gets 5 percent. The public access gets 1 percent of the gross, and this is the gross of the gross. The problem is that that money is not being used as the law stipulates it is to be used.

It can be used for enhancement of cable in the District.

Mr. DIXON. What does that mean?

Mr. LIVINGSTON. That means that you can have schools to teach cable. You can have instructions, you can have studios, you can have——

Mr. DIXON. What do you mean when you say "schools to teach cable".

Mr. LIVINGSTON. There is twofold. There is a technical school for the up and down link, for the satellite communications. Then there is a school that teaches broadcast operations, and all the peripheral trades that go along with that.

Mr. DIXON. You say there is some D.C. statute that requires the Office of Cable Television to contract with the school to teach citizens——

Mr. LIVINGSTON. When I say school, I mean the Office of Cable Television, the city-owned entity can, in and of itself, have a facility to teach technical as well as administrative, as well as broadcast——

Mr. DIXON. Are you saying that the statute requires them to do it or do they have the options?

Mr. LIVINGSTON. Yes; the statute 142.4 requires that——

Mr. DIXON. Is that included here?

Mr. LIVINGSTON. Yes.

Mr. DIXON. It requires them to do what?

Mr. LIVINGSTON. Requires them to—hold on a second here.

Mr. DIXON. Is it in your testimony?

Mr. LIVINGSTON. Yes; it is in the record, too.

Has a statutory responsibility office of cable television to protect, to promote the public interest and to assure the policies and provisions of the cable television are properly executed. This office has responsibility for monitoring the franchise agreement as the provisions of the law require.

It goes on to include the cable enterprise fund, which is a part of that.

Mr. DIXON. Well, where does that say they have to establish an educational facility?

Mr. LIVINGSTON. If you look at—do you have the record present?

Mr. DIXON. What record?

Mr. LIVINGSTON. The record that I submitted.

Mr. DIXON. Do you mean your statement?

Mr. LIVINGSTON. Yes.

Mr. DIXON. We have that. Direct us to that. What I am getting at is I think maybe there are some things that you would like them to do but it isn't mandated that they do them.

Mr. LIVINGSTON. I will show you that they are.

Mr. DIXON. Well, that is what I am asking.

Mr. LIVINGSTON. If you can get that record, I will show you.

Mr. DIXON. This statement?

Mr. LIVINGSTON. No; she has a considerable amount.

Mr. DIXON. We have it.

Mr. LIVINGSTON. That is your copy. Go ahead. Let's take a look at this.

Mr. DIXON. We have it.

Mr. LIVINGSTON. If we look under, for an example, the question that I have is that a minimum, like 4318.9. Are you specifically asking me for the school qualification or the educational qualification?

Mr. GALLO. The requirement.

Mr. LIVINGSTON. The requirement, OK. Under television, cable television law, which is 42, are you going to take a look at that?

Mr. DIXON. Mr. Miconi, could you just stay with us for a second here?

Mr. LIVINGSTON. Don't leave us yet.

Mr. DIXON. As I understand you, as it relates to this narrow issue, you think the Office of Cable Television is required to set up some educational facility and operate it for the benefit of the citizens of the District of Columbia?

Mr. LIVINGSTON. Yes.

Mr. DIXON. And I am saying that you may like them to do that, but what makes you think they are required to do that, and can you cite me some statutory authority?

Mr. LIVINGSTON. Yes; I have included it all in there, but I did not have this much time.

Mr. DIXON. You keep saying, yes, but you don't come up with any statutory language.

Mr. LIVINGSTON. Well, if you let me show you, I will show you. This was really great. I didn't think you were going to give me the time to actually show you.

Mr. DIXON. In fact, I don't think it is there. In fact, I would be kind of surprised and annoyed if you could show me that they are supposed to set up a school and run a school to train D.C. residents.

Mr. LIVINGSTON. OK. One moment. OK. If we look at 1809, which I believe that it is. I believe it is 1909.

Mr. DIXON. OK. It is headed "Mandatory provisions of the request for proposal. OK, let's see if we can find the specific mandate.

Here is what I see. It is D.C. Code, section 41-1809, and it talks about mandatory provisions of the request for proposal, and it says the request for proposal developed and issued by the design commission in accordance with subsection B shall contain the following. Now, I interpret this as things that must be in the proposal that is submitted by people, prospective people who want to have the cable franchise.

Are we together on that?

Mr. LIVINGSTON. Yes.

Mr. DIXON. OK. Instructions concerning the preparation and filing of the application, minimum requirements which all applicants are expected to meet, guidelines used for the design, commission, and evaluating the applicant proposals, the nonrefundable application fee, and then it goes on down, and I don't see any of those that talk about the establishment of an educational facility.

Mr. LIVINGSTON. OK.

Mr. DIXON. See, I think you are misinterpreting what they are saying.

Mr. LIVINGSTON. As I quoted the statute to provide that, to provide—are you familiar with the statute?

Mr. DIXON. We have it here.

Mr. LIVINGSTON. And do you have the——

Mr. DIXON. We have the statute here.

Mr. LIVINGSTON. 4-142.

Mr. DIXON. Yes.

Mr. LIVINGSTON. OK, the act of 1981.

Mr. DIXON. Am I making my point? I understand your desire, but I don't think it is in here.

Mr. LIVINGSTON. Well, OK.

Mr. GALLO. Well, why don't you read what you think it says in there. Where do you see it?

Mr. LIVINGSTON. OK.

Mr. DIXON. That is the problem. He can't find it.

Mr. LIVINGSTON. Well, just give me a second here. It goes on to say——

Mr. DIXON. What are you reading from?

Mr. LIVINGSTON. On your paper would be—well, in your book it will be 3353.

Mr. DIXON. OK.

Mr. LIVINGSTON. OK, and I will pick up halfway down, to resolve disagreements between the franchise and the subscriber public users, private adjustments, franchise satisfactory response or complaints to ensure that the franchise provides all service and response and reasonable requests and uniform access to the cable system avoid economic discrimination and encourage a wide range of individuals, groups, organizations to use the public access channel to educate the public to the benefits and the uses of cable television to periodically evaluate the system recommendations according to the council as in the franchise agreement.

That was a portion of the education. Then it goes on——

Mr. Dixon. Wait a minute. No, no. It says one of the responsibilities is to educate the public.

Mr. Livingston. Yes.

Mr. Dixon. I interpret that to mean to make the public aware of what the cable opportunity is as it relates to use and viewing, not to send them to school to be a technician or a broadcaster.

Mr. Livingston. OK. I think that you are misinterpreting what I am saying when I say that—to provide them with a minimum of six channels on the public, at least two public access studios.

Mr. Dixon. Right.

Mr. Livingston. In that course they are to provide studio.

Mr. Dixon. For the public to use and some public access channels.

Mr. Livingston. Well, yes, but they are to provide the training for that.

Mr. Dixon. Where do you get that from? We are back to square one.

Mr. Livingston. As we are looking at 1829.1, under public access, I am referring that also——

Mr. Dixon. Let me ask you, how many public access channels do they have? Do they have any?

Mr. Livingston. Well, that is debatable. They are required to have, according to—they are required to have a portion of the total channel capacity, which means they are supposed to have between 6 and 11, and you can find one for sure.

That is a requirement that they are supposed to have, a minimum of six. Then depending upon the maximum amount of channel capacity they are supposed to have a portion of that.

Currently, it is roughly around 60, so 10 percent of that——

Mr. Dixon. In reading all of this, I interpret this to mean that the franchisee should have maintained these public access channels and not the commission. So is your point generally that the franchisee is not living up to the agreement that they entered into with the District?

Mr. Livingston. Yes and no, but that is not my concern because the Office of the Cable Television in the act, the statutory responsibility is the Office of Cable Television to protect and promote the public interest.

Mr. Dixon. And they should be enforcing that.

Mr. Livingston. That is just one point that I am contending. I have about 28 points that they are not doing.

Mr. Dixon. Well, hit the most important. You have 5 more minutes.

Mr. Livingston. OK. I kind of thought that this would be read over, that is why I didn't really come with it, but I have got a little bit underlined.

Mr. DIXON. You thought I was going to read it, that is the reason you didn't come prepared? I did read it yesterday afternoon. Mr. Miconi and I went over it and we could not make heads nor tails of it, and I said that I would ask you about it when you testified here today.

Is that not right, Mr. Miconi?

Mr. MICONI. Absolutely.

Mr. LIVINGSTON. I understand. An example is we are looking for the two public access studios that are required. Go ahead.

Mr. DIXON. The franchisee, the person who has the award herein the District is to maintain and give access to the public to two studios, and you say six channels?

Mr. LIVINGSTON. Well, 18—43—1829.1 says that.

Mr. DIXON. You are saying the franchisee is not doing that, and the commission is not enforcing or making them do that. Is that—I am just trying to get to what you are saying.

Mr. LIVINGSTON. That is not exactly what I am saying.

What I am saying is the Office of Cable Television has the statutory responsibility to enforce these roughly 50 statutes. OK. In that enforcement, that is where the job is not being done, but moreover, that is——

Mr. GALLO. That is what the chairman just said.

Mr. DIXON. I am just trying to get to the thrust so I can try to help. I can ask—you are saying that the franchisee isn't living up to his agreement and the commission isn't doing anything to make them live up to their agreement. And one illustration is they don't have these two studios for the public, and they don't have enough channels for what we call public access?

Mr. LIVINGSTON. Or they don't have the equipment, as I made in the statement, but I think it is incumbent upon you to understand that my argument is not with the franchisee because there is no place that I am aware of other than the Office of Cable Television where a citizen has direct input into what goes on in the franchisee contract.

Mr. DIXON. I understand.

Mr. LIVINGSTON. So I have no jurisdiction in that area. My jurisdiction, as I understand it, goes through the Office of Cable Television and the Public Access Corp. and any complaints or——

Mr. DIXON. Right, but they are not enforcing it, right—the Office of Cable Television is not enforcing——

Mr. LIVINGSTON. They are not enforcing their operating mandate. They are not enforcing it at all with the franchisee or with their office. See, it is a two-thirds situation.

Mr. DIXON. All right. What are some of the other major points? I think we see this issue now. What are the other major points?

Mr. LIVINGSTON. OK.

Mr. DIXON. Just the highlights of the things that you think are not proper.

Mr. LIVINGSTON. I indicated that the contract that the city has, Office of Cable Television and a private contractor, yet they have a contract that exists where the students have no paper. They have no diploma of any type that sanctions them to work in the cable industry.

Mr. Dixon. You are back to the responsibility of the city to have a school for the—and I don't——

Mr. Livingston. No; I was using that as an example. The Office of Cable Television being involved with the contract with the city to oversee that the requirements of cable are next.

In that requirement, it is akin to not accredited medical schools——

Mr. Dixon. What is this school that they have a contract with?

Mr. Livingston. O'Ryan and at 1003 K Street, 825.

Mr. Dixon. And the Cable Television Office has a contract with them?

Mr. Livingston. The city, to train. The city has a contract.

Mr. Dixon. The city has a contract.

Mr. Gallo. Is this in the Board of Education?

Mr. Livingston. I think that, and also with Labor and Employment Services.

Mr. Dixon. OK. We will check this out.

Mr. Livingston. OK. I will just try to wrap it up and make it brief.

An instance in my estimation as far as to protect and promote the public interest with them paying over $1 million in rent through the vacant school buildings that exist, that would be perfect studios for the sound state, whatever, classroom auditorium.

That is just the one instance. If you look at it, I have included page—I have an example of page 7-32, page 7-33.

Mr. Dixon. OK, go ahead.

Mr. Livingston. OK, one instance we might have is that they do not correspond with the congressional budget, but it does correspond with the City Council budget. Therefore, if you look at the documentation that I have included, you will find a more accurate reading of the page.

If you look in the congressional budget, you won't find the page, but look in the document I have Xeroxed of those pages, and you will find exactly what I have done. As I said, 43-1809 mandates that 1 percent of the gross of the channel capacity should be reserved.

As I stated, it is required that they upgrade and upkeep and in no way should the City Council have to go in and say to upgrade or upkeep. I have listed how NMOAM, HD, a number of technological advances that exist and existed when the cable company came about in 1981, there were roughly 97 cable companies, 97 transmitters, and of those 97 we have a small portion.

Now, they are up to about 35. If you have a VCR you know it has cable capacity for about 150. The last thing I will say is the most important thing that I think, and that is that the cable television law mandates that they carry governmental, local and Federal and provide the schools with one reception point.

The problem is that the schools are not wired, and I have indicated some of the reasons as to why the schools are not wired, and their reasoning as opposed to the legitimate reasoning, but more importantly C-Span I, the House and the Senate, C-Span II, the State Department, has a feed. The White House has a feed. DOD has a feed. The White House has a feed. Labor, Education, all those Federal feeds are supposed to be supplied to the school.

Now, it is just mind-boggling that the cable operator in the Nation's Capital, let alone Podunk, the Nation's Capital, the center of the universe is not required to send that much information into the schools. It is mind-boggling.

Mr. DIXON. Well, maybe they are eventually going to get cable to the schools. It is my understanding that the entire District is not yet wired for cable and that they are phasing it in sections and they will eventually get to the schools.

Mr. LIVINGSTON. As you will read in 1981 when this was enacted, 1987 when they started, it doesn't take as long as it is taking and some of the reasons that they have given as to no bonds, no insurance, and whether we haven't had any foul weather in about 3 years for not hooking it up, that is just not the facts.

The facts——

Mr. GALLO. Mr. Chairman, is it not, though, the fact that the city is having a great deal of difficulty with the cable company and that the cable company has not lived up to expectations? In fact isn't the District planning or at least threatening to go out for another bid because the franchise hasn't done what they said they were going to do?

Mr. LIVINGSTON. I can't comment on that, sir. I don't know.

Mr. PERSONS. Yes, sir.

Mr. DIXON. That is the whole point we have been talking about.

Mr. LIVINGSTON. Well, he is asking me if a media piece, and I have no knowledge of that. I mean, but what is printed——

Mr. DIXON. Let me indicate to you, that we will keep your concerns in mind and we may revisit with the executive director of the Office of Cable Television. Thank you for your testimony, Mr. Livingston.

Next we have Joe Persons, and you want to testify along with Ms. Mohammed about the educational system, as I understand it.

STATEMENT OF JOE PERSONS

Mr. PERSONS. Yes, sir; I am a founder of the D.C. Coalition for Better Schools and we are united to promote maximum efficiency. Again, I would like to thank you.

Mr. Dixon, it is an honor to meet you up close and personal, along with other gentlemen on this subcommittee. As a parent of D.C. public schools, and I am watching the numbers that are being allocated to the D.C. city schools, whether they are Federal matching funds or et cetera, and when I look at the declines according to my organization, we went out and surveyed the schools and we found that the declines of student achievement are due to the quality of the teaching force, quality of the curriculum, shifts in demographics, changes in attitudes and motivation, coinstruction in early grades and lack of parental involvement.

I sat here at the beginning and I heard Mr. Parris speak of the penal codes, and I hear a lot of folks talking about constantly locking up, you know, folks in jail, and particularly when you look at the fact that there are more African-American males in jail than in all of the colleges here in America, and as great as this country is to be, we can't be all we can be if we are not going to be inclusive of all the people.

Now, I understand that all the individuals on the school board came and they—I mean the individual superintendent and everybody came up here on Capitol Hill and talked about certain moneys, you know, for the D.C. public schools, but when we have in our book system in the D.C. public schools, the average book in Washington, DC, is 17.5 years old.

By the time my daughter gets a full set of books, you know, to get her, to complete her education, it will be because daddy is paying for them in college because she is not going to get it in D.C. public schools.

The second thing is when the kids in the D.C. public schools finish two grades behind all of the other jurisdictions here in Washington, DC, and in some cases, in some areas such as I think Iowa, Utah, which are predominantly white, you know, you are talking 3 and 4 years in actual education.

This is an atrocity and I think that where they are coming up here talking about getting money, I want some kind of provision put in where we can oversee in terms of—well, the main thing I am asking for is like the audit of like the building and grounds, including contracts paid out, man-hour supplies and accounts because when organizations start looking into this, it is just unreal, mind-boggling of how the moneys are being wasted.

We have 87 percent of the moneys that are allocated—of that $523 million that are going to be allocated this coming year, 87 percent is in salary. That is compared to 47 percent in the education of the children are actually getting, so our children in the District of Columbia are not getting anything. When I hear Mr. Parris talk about the penal system, well, the bottom line is if you educate these children, you know, properly, we can move ahead.

At Lorton alone, 76 percent of the population at Lorton are from Washington, DC, and they are dropouts. They are dropouts in the school system, and yet still nobody has the guts to come up here and say, Listen, you guys oversee everything else because we don't have home rule, not like I see it, any time we can't have representation, I'm not opposed to statehood, I just want to be represented because I pay tax dollars for everybody sitting in this room and everybody pays.

I don't work for the government, but however we supposedly work together. We are in this together. If we are in this together, then is it possible you gentlemen could see your way to ask, I don't know if a review board or maybe the teachers or just to look into investigation of the school system and why these children are not being educated. It is not a thing of—I know the people are trying to say, well, this is a black school board superintendent, black school board members, 98 percent of the students are black in the school system. That is well and good, but there has to be a problem why these children are not learning.

I want someone to come in and say, Hey, let's look at this and find out, and why we just can't have a review board. Our unions in the D.C. public schools, the council of offices and the D.C. Teachers Union are holding us as parents and the students hostage because we cannot evaluate—it takes 1 year or 2 years or 3 years to get a teacher. You almost have to catch a teacher in the act of doing something—example of that.

I had a Spanish teacher who taught my daughter. In his classroom, he talks about his hitch-hiking experience to the students. He tells of how males picked him up and propositioned him to perform unusual sex acts.

Now, when I go haywire, you know, and I would go down here and fight this, everybody is like, well, Mr. Persons, the intent—no, it is not the intent. His personal life and his personal experience such as that, if the moral of the story was "don't hitch-hike," that wasn't the exact way to get this story across.

There is no means and way for us to be able to evaluate a teacher or—I remember back when I was coming up they had a tracking system when Julius Hobson and them broke that, that was indirectly a mistake. It was a good mechanism, but I can see on the other hand how you can destroy somebody, but at the same token, you can find out whether the teachers are actually teaching in the D.C. public schools.

That is your problem. Until, gentlemen, you decide to really go ahead and educate these African-American people and these Hispanic folks and other white students in our D.C. public schools, you are going to continue to have, you know—you are going to continue to put up jails, and the reason I know is that because as a parent advocate, I am in the schools and I am seeing the kids are brain-dead by the time they are in fifth grade.

We are moving toward middle schools, but our problem is creating some kind of mechanism to be able to look at these teachers and say, Hey, if you are not doing your job, you have to go.

They have a cronyism system in the school system that the superintendent, the school boards and everybody is the old buddy system, and you gentlemen understand that with all the investigations you have going on up here along with outside of your jurisdiction. It is like if you don't educate these children, it is not going to happen, and it is getting worse. It is getting worse.

Mr. Dixon. Mr. Persons, I thank you for coming today. I would like to ask you a few questions.

Are you a resident of the District?

Mr. Persons. Yes, sir; I am speaking not only recent, born and raised here. I come out of the roughest section of Washington, DC, Barry Farm, so I am qualified to speak on this.

Mr. Dixon. I am not challenging you at all. Do you have children in the school system?

Mr. Persons. Yes, sir; one that I just removed her. I moved her to Deale where she was going to Lincoln. She is 14 years old. And I also have a 9-year-old daughter. I am in the process of looking at adopting a son now.

ASSOCIATION WITH COMMUNITY ORGANIZATIONS

Mr. Dixon. Do you belong to a parent organization that focuses on education or is this just something that——

Mr. Persons. Sir, I am the founder of this D.C. Coalition for Better Schools. I am also the founder of Parents Against Drugs. I am also on the executive committee of the D.C. Congress of PTA, which does absolutely nothing.

Mr. Dixon. OK.

How large is the organization that you are the founder of?

Mr. PERSONS. The D.C. Coalition? We have a total of 14 schools that are involved.

Parents Against Drugs, we have a total of 50 members total, but all these organizations were just born out of last November, and the results, mean we are getting results. If you look in the papers daily, the enrollment figures that were given the gentleman Arthur Hawkins who put the paperwork together, we worked behind the scenes that we are tired of people not doing their job.

Mr. DIXON. Have you made any effort to coalesce with any of the other organizations?

Mr. PERSONS. Yes, sir; but the other organizations, for example,the group Parents United who came and testified I think it was last week their concerns—we don't have the same concerns in southeast or ward 8 or ward 7 or ward 6 as they do. Most of them live in ward 3.

Mr. DIXON. But their concern in part is that more money should go to the educational system here, and they are also concerned about the quality of teachers and their ability to teach.

Let me ask another question. Are you familiar with a report that was done by——

COPE REPORT

Mr. PERSONS. COPE. I can give you a dissertation of what is wrong with that. I went through the COPE committee. The problem with the COPE committee, even though they talk about the training or they say 15 percent of the teachers in the D.C. public schools will be considered master's teachers, the problem is that we need some type of evaluation so that we will know exactly what a teacher is—that is the bottom line.

Mr. DIXON. They are interested in that, too, according to their testimony.

Mr. PERSONS. In their testimony they say that, but when it comes to dealing with the real issues, they are not willing to go in there and fight for that problem outside of ward 3, and that is for real.

EDUCATION FUNDS TARGETED TO CERTAIN WARDS

Mr. DIXON. Is it your perception that increases of money for education are targeted for specific wards?

Mr. PERSONS. Oh, yes, sir. As a matter of fact, Ms. Mohammed can answer that even further in detail, more so than I, because we had a Dr. Rattery that did "A Tale of Two Cities," and if you let Valencia answer that, she will tell you exactly, answer that question.

Mr. DIXON. All right.

STATEMENT OF VALENCIA MOHAMMED

Ms. MOHAMMED. Good afternoon. My name is Valencia Mohammed. I am a resident of the District of Columbia. I have six children in the D.C. public schools, one in senior high, one in junior high, and four in elementary schools here. My son, who is 4 years old, will graduate in the year 2002.

I have a vested interest in the D.C. public school system sir.

I would like to read to you "A Tale of Two Cities." It was a report that was given to me and I published it in the Capital Spotlight newspaper here just recently on June 7. I will make sure that I give it to your secretary.

I do have a written testimony, but it wasn't typed. I just found out like 2 days ago because he just received his documentation.

Mr. **Dixon**. That is OK. Just tell us what your grievance is.

Ms. **Mohammed**. Thank you.

The Institute of Independent Education last year, 1989, published a document titled "A Tale of Two Cities, Test Scores, Neighborhoods and Family Incomes in the D.C. Public Schools," which shows that race and class do play important roles in the type of education a student receives in the D.C. public schools.

It confirmed what many parents already believed, that if you are poor and of African descent, your chances of getting a quality education are very slim, even if the school board is predominantly black.

The institute points out the Nation's Capital has a gaping chasm separating public schools for blacks and whites, two different academic worlds in one political jurisdiction, two cities separated by family income.

The study used the data pertaining to elementary schools since most parents most likely will not transport their young offspring across town when the neighborhood schools are so close.

The report cites on one side there is a set of schools which serves 77 percent of the total elementary school population and 80 percent of the African-American elementary school students in the District. These students attend schools in neighborhoods where test scores tend to be uniformly below the national norms and in several instances drastically below the norm. There are 90 schools in this category representing 75 percent of all elementary schools.

Another set of schools serves 23 percent of the elementary school population. These students, who are from more affluent families, attend schools in neighborhoods where the test scores generally are above the national norms.

However, African-Americans are still at the lower rungs of this higher ladder. The overwhelming majority of them are enrolled in 22 of the 37 schools in this category.

At the 11 schools where there is constantly high performance, only 1 percent of the entire African-American elementary school population is enrolled, compared to 74 percent of the white population. This means that most African-Americans in the District do not have even a remote hope that they can be educated in environments where a substantial learning is taking place.

I also witnessed in April a squabble between Angie Corly, Angela Corly, who is the board member for ward 5, and her colleagues on the Board of Education in April over the Philip Morris grant of $1.2 million. She complained, and she was in tears, that ward 5 does not receive grants like the other wards. She claimed that certain wards, certain schools keep receiving the best programs, the grant money, the most funds, best teachers and staff.

And although I didn't agree with their acceptance of the grant, there was an obvious point being made here which justifies the institute's study as far as I am concerned, that the lack of quality programs in some areas of this city is by design.

And my question is, according to the DCMR chapter 3, it states they should use the equalization factor and that no one ward will have more than 5 percent in human resources or what are the other—money resources, whatever you call that, more than any other ward, and we are saying this is not happening in the District of Columbia, and, therefore, we are asking for quality education for all the schools.

They have some new terminology out there. I am studying schools of choice. I am studying the magnet programs. I am studying all these other models and initiatives. They have about 25 initiatives out there.

For the majority of the time when they set these programs up, ward 3 definitely will get, there is no doubt about it, just like the policeman over there in an emergency, we have emergencies in our wards, but ward 3 will get portions of that program, there is no doubt in our mind about that, but the other wards are not being given an adequate education.

Now, what we are saying is that I would like to see accountability brought to the Board of Education, whether or not the Federal Government will set up a task force of some sort or a commission or whatever to make sure that the money is being used according to the law. That is basically what I am asking.

I don't think that a person has to take two buses and a train to get to ward 3 for a good education. The quality education, according to their own law, states that citizens of the District of Columbia shall provide the resources for them to render a quality education, and that they shall use that money effectively, and I charge they are not doing that.

Mr. DIXON. What ward do you live in?

Ms. MOHAMMED. I live in ward 1. Currently in ward 1 we are recalling our school board member because of her accountability, her lack of effectiveness doing the job.

Mr. DIXON. Who is that?

Ms. MOHAMMED. Wilma Harvey.

Mr. DIXON. Let me read to you the summary of COPE and the summary of the their key recommendations that are explained in detail in their appendix:

> Redesign the school program, the teaching curriculum and testing to achieve greater success for all children, with particular attention to special needs of at-risk students, reaching children early with higher quality programs so the students don't start school already behind; keeping schools open untll 6 p.m. to provide latchkey children with a safe alternative other than the streets; keeping schools open during the summer to provide enrichment programs and additional academic assistance for those who need to catch up with their peers; strengthening the work force so the District attracts and retains the highest quality teachers; principals trained to meet the special needs of District children; and repairing facilities.

Ms. MOHAMMED. May I just say something, Chairperson?

Mr. DIXON. I would say that your ward, since you put it so bluntly, would have a high degree of latchkey children, would have a high degree of children at risk, and that COPE along with your organizations, is working to improve that.

Ms. MOHAMMED. Excuse me.

First of all, that at-risk terminology is very derogatory to the African-American community. All the children in America, as far as we are concerned, America is an antichild society, so they are all at risk, so we don't appreciate that particular terminology being made to our community, and that latchkey terminology.

Those are just new buzz words to get funding, and quite frankly—our community is very annoyed with the term "at-risk."

We consider them children. They are children in need of a quality education.

Let me just basically state according to the D.C. COPE committee report, they did not have community representation, and we stated this quite frankly with the superintendent, that when we did a study of the 65 members on the COPE committee report, most of them, over 75 percent do not even reside in the District of Columbia, and they don't have children in the D.C. schools.

So, they don't have a vested interest in the schools, and we noticed that Mr. Sebrum and Mr. Lieberman or something, Spielman who was the representative for Parents United, I noticed when they put it on there, they failed to put down his affiliation with that group.

One meeting he spoke as a parent. The next meeting he was on the District Committee for Public Education, so he is on two—he cannot play two sides in the corner.

We pointed out to that. Sir, to begin with, I represent 10,000 petition signatures——

Mr. DIXON. Are you referring to Ms. Levy?

Ms. MOHAMMED. No; Sebrum and Lieberman, Jay Silberman. It's on the upper right hand side of that page. It's like the second or third one on the list of names.

Let me just say this, that I am the director of Operation Know Thyself, and also the founder. We are a parent organization that came together in March 1988 to promote the African Center of Education in the D.C. public schools.

I represent 10,000 petition signatures in the District, and we know that although the COPE committee was finally underwritten with $500,000, that it failed to realize the actual needs of the African-American community there.

We don't need better ways of learning white supremacy. We want our children taught the truth. That was not brought out the truth, that we want an African Center of Education.

We want a total funding for it, that the Board of Education has only given a small amount for that, and that we want quality education, we want teaching, we want our teachers to be well trained in the area so that they appreciate the values and the learning styles the African children bring into the classroom and not consider them at risk.

Mr. PERSONS. The other thing, Mr. Dixon, is that I understand the COPE committee report. I read it five different ways to Sunday.

But all we are saying is that I was born and raised here in Washington, DC. I had the opportunity to go to Johnson Junior High, which is a pilot program for at-risk students. They opened up a few other schools, Brabeau Junior High, a total of 20 since 1968 to

1990. The only system that actually worked was the tracking system.

I realize that Julius Hobson won their lawsuit because they showed—it wasn't actually him who won it. It was a white liberal from Boston who showed you could use this system to really be racist toward an individual.

But also our African-American students, if you go back and you check from 1965 back, even though the schools were segregated, our African-American students were some of the best educated students coming out of senior high schools in America. The passed civil service exams in record numbers, and go back and check the records.

The statistics speak for themselves. When they broke the tracking system, the unions took over the schools, and you cannot get a teacher such as the lady Gladys Fields of the District Academy who said she is not going to teach black students because they don't have the capability to learn. She is still there.

Now, I can't understand this. Well, I am not superintendent, but if I were a school board member, I would have moved on this. They could not move her because granted she has tenure and this, that and the other, but I am just saying some kind of evaluation board where you can look at overall, where you can look at what they are doing in the schools and make a mandate, say, wait a minute, they have mandated in that book that by the year, what, 1994, that—no, the President of the United States says that by the year 1996 or 2000, we are going to graduate 90 percent of our students in the public schools. That is not going to happen, not in Washington, DC.

We have had—not in this present system that has been here for 20 years. We keep coming up short.

Now, I am a graduate of the D.C. public schools. I went into the military, and I found it appalling that after I got in the military I could go to Central Texas College to take a test and I found out that I can't comprehend.

I wasn't a crack head. I wasn't a drug guy, you understand? I had—no, I didn't have a fear, but in the average black community, there is no fears in there.

But I had strong women who raised me, and Otis D. Cook, who was one of my teachers, who taught me, if it weren't for him, I might have been a bum.

I wasn't a bad student. I went to school every day. I still couldn't read. You are not going to tell me that people like Dexter Manley, and that some people in the bucks, like most parents in the D.C. public school, if my daughter brings home an A, A, A every day, I am not going to run up to the schools and say well, is she being educated because in terms of schooling, if you are looking at A's on a report card, I mean, you think everything is OK.

When I transferred my daughter from ward 1, Lincoln Junior High, because I am presently involved in some litigation with them, I moved her to ward 3 to show you the disparity in education, she was a 3.5 average in math. She was taking advanced talented and gifted math classes.

At Deale, the teacher, white teacher by the way, 2 years in the system, came to me, said Mr. Persons, let's sit down and talk because your daughter is not learning nothing there. She took a basic geometry test, and do you know not only did she flunk it, but it was like, you know, I just couldn't believe what was going on here.

So all I am saying is that if we had a system where I could have evaluated these teachers to find out that the average, the chairman of every department at that particular junior high school where she was going, have been at that school 20 years, then they should be—it's just like you as representative, if you have been doing this for 15, 16, 20 years, I am expecting you to be able to push a bill through, you know, to get over the rough edges, you know, who the radicals on the right and left are, so forth and so on.

This is not happening in the D.C. public schools, and I am sorry, I am just asking for—I know there are some people who are going to be angry because you are going outside the realm of all the other people. Damnit, I am tired of my children being the last hired and the first fired.

If you look at the report, that was just given out by the Office of Personnel Management, ladies and gentlemen of the—OK, they recite 30 percent of the students, senior high students from the District of Columbia, Maryland, Virginia and other 10 percent is around from all over America, of that 30 percent they come out of Washington, DC, 90 percent of them are fired within the first 90 days because they cannot keep up, they cannot comprehend.

It's just good enough to get in. It has to stop.

Mr. DIXON. Let me ask you, is your basic grievance twofold; one, that the teachers aren't teaching and, two, you and your organization have a problem with the curriculum?

Mr. PERSONS. No, sir; that is not——

Mr. DIXON. Is there some issue about changing the curriculum to be oriented toward a more African approach?

Mr. PERSONS. That is her organization, but that is going to be a done deal because I don't think the African-Americans of Washington, DC, are going to allow the school board to do anything else but have an African-centered curriculum.

My problem is——

Mr. DIXON. You are not happy with the curriculum?

Ms. MOHAMMED. I don't believe in teaching one-sided white male domination. Are you happy with that? I am not.

Mr. DIXON. That is a whole different issue.

Mr. PERSONS. The issue I am dealing with—that is part of the issue that helps, but the issue I am dealing with specifically is that because the unions will not evaluate the teachers to know—if I go into a classroom and see a teacher reading a paper 3 times out of 5 days I go up there or 3 times—if I go up to the school 15 or 10 times out of a month and I go on into the classroom and the teacher is reading the paper 5 times out of the times I am going in and the kids are not learning anything, and there is no mechanism to oversee them, that is what I am saying, some kind of mechanism to be able to evaluate how effective the teachers are teaching.

Mr. DIXON. Let me ask another question. A lot of the parent organizations that have come here to testify about the educational system have some very specific grievances, and you raise a very specific grievance. But I am asking if you have anything to back up your grievance. For whatever reason, you never offer a reason that your ward and other wards are being shortchanged, and I assume it's based on income, not that it is based on something else, but that it is based on income?

Ms. **MOHAMMED**. Well, there is a report that I can send to you.

Mr. **DIXON**. Is it based on anything?

Ms. **MOHAMMED**. It's based on both income and color, unfortunately.

Mr. **DIXON**. Well, as far as color is concerned, I would imagine that the students and teachers in school district are about 95 percent black.

Ms. **MOHAMMED**. It's 92-percent African descent, sir. However, again when you only have 11 schools that are performing above the national average and the schools are low——

Mr. **DIXON**. Have you identified specific problems with the schools? The report indicates a lot of schools are just in serious disrepair.

Now, have you, either one of your organizations, identified the schools that need repair?

Mr. **PERSONS**. Oh, yes, sir.

Ms. **MOHAMMED**. Let me just say something, Mr. Dixon.

To begin with, the D.C. Committee on Public Education didn't come up with any new findings.

Mr. **PERSONS**. That is right.

Ms. **MOHAMMED**. This is already a matter of public record. There have been organizations like mine that have been consistently requesting information from the D.C. public schools through the Freedom of Information Act, and we are still waiting on the information almost 1 year later, so this is not new.

What they did, because they got the go ahead from the superintendent, they were allowed to go in the schools, and they documented the information. I can take you—we have 190, which one would you like to see, the hole in the wall with the bucket catching the water? Any of them, any day. Which one do you want?

Mr. **PERSONS**. But when you go up to ward 3, the facilities' maintenance is excellent up there. If you just look at the school closings that just happened in the D.C. public schools, the school closings were in predominantly black neighborhoods where the schools were situated, for example, on highways and byways as opposed to going up in ward 3. And when you look at ward 3, 45 to 40 percent of the students do not live in ward 3, so that means all often have to be underenrolled, so why don't you go up there.

The bottom line, I am just asking my specific here is an evaluation, some kind of oversight to look into quality—not so much the quality, but I am talking about the law in terms of to make them follow the law in terms of equitable education so that if my daughter—like I say, she lives—wait a minute. First of all, in terms of income, my wife and I, between us, make about $70,000 a year. OK. So that is no excuse. All right?

So, therefore, we are in ward 1. I am a parent advocate, when I was PTA president at Lincoln High an excess of 2 or 3 days up at the school, so there is no excuse for my daughter not being educated—when she goes over to the ward that, what she is being taught at this school is not good enough. So since these people don't have—they don't have the vision to be able to look and make a hard decision. I am coming to you to ask maybe you can talk to some of these folks so maybe with a phone call—I don't care how it happens—maybe the phone call, maybe you might know somebody.

Mr. **Dixon**. I understand what you are saying, and I am just asking, do you have some—one-half dozen good illustrations of where you are lacking?

Mr. **Persons**. Oh, yes, sir. I don't have them right here with me, but I will make it a point to get it back and have it delivered and put in your hand.

Ms. **Mohammed**. Mr. Chairman, may I also, I have well documented information. We have a report that was funded that talks about the racism in the schools and the effects it has on the learning of the children.

We have reports by Psychologist Atwell. Let me just say this in terms of——

Mr. **Dixon**. You are trying to change the curriculum, aren't you?

Ms. **Mohammed**. Yes; among other things.

I am trying to make sure that the children have a learning environment that is conducive for learning.

Mr. **Dixon**. Are you willing to work with other groups?

Ms. **Mohammed**. I am working constantly with other groups.

Mr. **Dixon**. Are you working with Parents United?

Ms. **Mohammed**. Parents United is not the only parent organization in the community. They don't represent the populous of the black community. I don't want to be dictated to by ward 3. I have a very good relationship with the labor and rights. Thurstead, we have been on several panels together, but she knows I am not going to be dictated to by ward 3.

Mr. **Dixon**. So Parents United is a ward 3——

Ms. **Mohammed**. According to them, they have people that have joined their organization from 112 schools according to the Washington Post.

However, in reality, the rules and the regulations and whatever their format is comes out of ward 3. I am not employed to be dictated to by ward 3, and that is the bottom line.

ALCOHOLIC BEVERAGE STORES NEAR SCHOOLS

Let me just say this and also in terms of the regulations of the schools, we would like to see some kind of stricter regulations or some kind of—in this commission that they make sure that the Board of Education adheres to the rule according to the D.C. title V regarding the alcohol licensing. We have a—with the Korean, we have an influx of Korean alcoholic beverage stores around our schools.

Now, according to the law we are supposed to be a certain—a block radius. They are everywhere. They are across the street from the schools. Would you like to go to—what is the name of that school on Irving and Georgia? We can take you——

Mr. **Persons**. Bruce Monroe.

Mr. **Dixon**. Why don't you give us a list of the grocery stores that sell alcohol. Is that what you are talking about or are you talking about liquor stores?

Ms. **Mohammed**. They have all of these. I mean, the list—that is another problem.

Mr. **Dixon**. Why don't you just prepare a list and send it to us. Those stores that you think are in violation of the ordinance that states they must be a certain distance from a school and we will check it out.

Ms. **Mohammed**. Block radius.

Mr. **Dixon**. Whatever it is, 500 feet or 1,000 feet or a block, and we will check it out.

Ms. **Mohammed**. Definitely, because according to this Dr. Joan Raterry's report, it states when conditions in schools are below the norm, they set the tenure for achievement in the entire ZIP Code community. This is what we see going on.

As far as the sanitation, we have met with the sanitation department, and they are telling us the amount of drugs and paper and litter and trash and debris that is around these liquor stores. We spoke with psychologists and they are talking to us about——

Mr. **Dixon**. Have you talked to the person who is on the City Council?

Ms. **Mohammed**. That is another joke. I didn't come here today to talk about the City Council.

Mr. **Dixon**. But they would have some jurisdiction over the streets being cleaned.

Ms. **Mohammed**. That is another joke.

Mr. **Dixon**. You can't take the whole system on at one time. Is there anything in the system you like? Is there anything here in Washington you like?

Ms. **Mohammed**. The fact that this is a democratic society and that I can come before Congress.

Mr. **Dixon**. Is that about it?

Mr. **Livingston**. There is no representation. If we had 37 people, it may be different. We have 323 ANC people. How come they can't cover us? Because you have people direct access. They are not worried about situations. They are worried about profile. Give us some legislation.

You have jurisdiction to put those 323 people in charge. Put 37 people——

Mr. **Dixon**. The advisory neighborhood commissions?

Mr. **Livingston**. Put those people in charge. Put 37 people on the City Council so we can make some changes and get some things done. Give us direct audit, audit on demand. Give us that legislation.

Mr. **Persons**. That is what we want.

Mr. **Livingston**. I am not in favor of statehood. I want you to run us, but I want audit on demand. Give us that legislation.

Mr. **Dixon**. Does anybody have a final word they want to say? Will you send us the list? I will try to tackle some of these items, but I sense that there is overall disenchantment, which is your right, with the entire system.

Mr. **Livingston**. You can look out your window and see, you can watch the news. We are on the street every day.

Mr. **Persons**. Who is in jail?

As a matter of fact, wasn't it—I am not going to quote the Senator, but wasn't there a Senator who just said he witnessed a mugging or somebody getting robbed, and he said that—I am just saying that part of this is because all of this ties into the major problem.

If we are to get a quality education for these students and you won't be sitting here allocating more money for 700 more police, bigger—because that is the only thing I am saying is all these different administrations are talking about, more jails.

Mr. DIXON. Do you think there are black people in this community, meaning Washington, DC, who are concerned about public safety?

Mr. PERSONS. No, they are, but a lot of it is lip service.

Mr. DIXON. What do you mean lip service?

Mr. PERSONS. Let me explain something to you.

In my ward——

Ms. MOHAMMED. John Doe—John Q. Public.

Mr. PERSONS. Tell you the truth, there are people who are concerned, but there are a lot of people who feel like, you know, if I don't have—if that doesn't directly affect me——

Mr. DIXON. No; but I am saying, there are people here who have organized and, just as you have a concern for the educational system, they have a concern for safe streets. They are organized. They are walking the streets together.

Ms. MOHAMMED. I think that is a Band-Aid approach actually.

Mr. LIVINGSTON. Of course it is.

Ms. MOHAMMED. It is not going to work effectively. I am sorry. I work from an African point of view. Wearing the same T-shirt and hat and get a flashlight and meet on the corner is not effective.

Mr. LIVINGSTON. We can lock up everybody on the streets of the District of Columbia.

Mr. PERSONS. The black and the Latino, the black and Latino students, if you congregate and let's move along. You get the other white teenager that is standing here on the corner. It is like, well, let's move around, so it is that perception because of the media that our African-American students and that the Latino, Hispanic community are the bottom.

So we are just asking for some help, and yes, we are tackling some things, but the point is if we could get some legislation like he said that mandates an audit such as this audit. I want the the buildings and grounds, an audit to find out how many teachers, for example, take excessive leave, then we would know that you will find out what we already know, that teachers come to school only 60 percent of the time, so you are not educating anybody.

Mr. DIXON. Well, I am going to try to work with you on some of these problems.

Mr. PERSONS. Thank you. We will put it together.

Mr. DIXON. In a community you have to give a little bit and take a little bit. Toward the end it sounded like there is nothing right.

Ms. MOHAMMED. We gave away our prisoners.

Mr. DIXON. Those people did commit crimes. There are people who are dead or abused or handicapped as a result of their conduct. You make it sound like these are innocent people.

Now, maybe society is partly to blame for that, but as you said, education plays a part, but we can't excuse everybody's conduct based on the fact they didn't get a good education.

Mr. LIVINGSTON. Well, I don't know about that.

Mr. PERSONS. The only difference between the way you are over there presenting is your education, and if you are a lawyer, you are a lawyer; right? I guarantee that if I were a lawyer——

Mr. DIXON. That is not what I am saying.

Mr. PERSONS. That is exactly what it is. If we educate these kids——

Mr. DIXON. When someone attacks another person physically, although they didn't get a good education, we can't excuse that conduct.

Mr. PERSONS. We are not saying that

Mr. DIXON. That is all I was saying.

Mr. PERSONS. At Lorton, like I told you, 76 percent of them did not finish senior high, and most of them in terms of grade point average only read on a fourth grade level. That speaks directly because they are locked out.

Mr. DIXON. And that speaks to the system here.

Mr. PERSONS. Yes, sir.

Mr. DIXON. And the system is to blame in part.

Mr. LIVINGSTON. We are to blame. That is why we are here.

Ms. MOHAMMED. Let me just say this in closing for myself, Chairman Dixon, that most people do not have the slightest idea, especially not a lot of African-Americans that we are African-Americans that have been culturated into the Euro-centric idea do not have an idea of what an African curriculum means. I am not here to give you the definition. I hope many of you will look at it for yourself: They have lots of books and lectures that they give on that.

When we say that we are responsible for the 10,000 prisoners from an African centered point of view, that is definitely our responsibility, and it is in our responsibility to make sure that it does not happen again, so we take full——

Mr. DIXON. You mean as a community?

Ms. MOHAMMED. As an African community, it is our responsibility, and we must take the blame, and it is for us to correct and not for someone else who is sitting there looking at numbers all day on the system accounting measurement telling us if I give this two point this and I will get this amount of measure out of it. It is not going to work it that way.

Mr. LIVINGSTON. We will do the leg work, just give us a little help.

Mr. DIXON. I know that you will, and I know that you are well meaning and that you have put a lot of time into your concerns. You have suggested here something very serious, but I wanted to know whether you felt it was the curriculum that was wrong or the distribution of police officers, and it is both.

Ms. MOHAMMED. You look at the individual and his relationship to the whole. We can't look at one particular incident. We are saying there is a lot to be done. All we are asking Congress to consider is an audit or a task force or some commission.

Mr. LIVINGSTON. We will do the work.

Mr. PERSONS. We will clean the schools up.

Mr. LIVINGSTON. We will clean the whole town up.

Mr. PERSONS. Then you won't have to worry about Jay Stevens doing the job.

Mr. **Dixon**. Will you send the material to us?

Ms. **Mohammed**. Yes; we will.

Mr. **Dixon**. Thank you very much for coming.

Very nice meeting you.

Public Safety Issues

STATEMENTS OF:

L.L. LEN, D.C. FEDERATION OF CITIZENS ASSOCIATION

JAMES E. GALLAGHER, DEPUTY CHIEF, D.C. FIRE DEPARTMENT

Mr. **Dixon**. Next, we have Catherine McCarron.

Mrs. **Len**. She hasn't arrived yet.

Mr. **Dixon**. She is about 1½ hours late. All right.

Mrs. Len, you are our last witness for today. Are there other public witnesses who just happened to show up today that weren't on the schedule?

Mr. **Espenschied**. Yes.

Mr. **Dixon**. Is there anyone else?

Mr. **Espenschied**. I am not fully prepared. I would prefer to let Ms. Len go, then I will go in 5 or 10 minutes.

Mr. **Dixon**. Mrs. Len, I think you are going to be next. We will give him the courtesy.

How are you, Mrs. Len? We have with us Mrs. L.L. Len, and she is here for Quality Services, Inc.

Mrs. **Len**. I am here for—they got it wrong. I am very sorry. It is the D.C. Federation of Citizens Association, which has a resolution in here.

Mr. **Dixon**. Why don't you have a seat.

One of your main concerns over the years has been the fire department; right?

Mrs. **Len**. Right.

Mr. **Dixon**. I know that you are still visiting fire stations. What will you—where would you like to start today?

Mrs. **Len**. Well, Chair Dixon, thank you, and very humbly I want to thank you for the card you sent me in February.

Mr. **Dixon**. You are quite welcome.

Mrs. **Len**. And say amen.

Mr. **Dixon**. All right.

Go ahead.

STATEMENT OF L.L. LEN

Mrs. **Len**. Mr. Leeth and Mr. Miconi, it looks like you are left alone here, and your staff and citizens, otherwise manpower—I don't have my right notes here. Excuse me. I got so excited about the schools having problems—I can't find my notes.

Mr. **Dixon**. The fire department is concerned with the kinds of things you say. They know you are very active as well as very reliable and knowledgeable.

Mrs. **Len**. I think they really didn't understand that the union locals of the police department and the fire department were being put off until Tuesday. I don't think they knew that, so I am excusing them.

Mr. **Dixon**. Oh, I see.

FIREFIGHTER VACANCIES

Mrs. **Len**. Chair Dixon, No. 2 is manpower. We have 100 vacancies plus the 90 that have been ongoing for the last years.

No. 3, overtime.

OVERTIME

Mr. **Dixon**. You know they have said they are going to do a lot of recruiting and hiring? That is what they said this year.

Mrs. **Len**. But they haven't said that they will add that 90 to it. I told you all several years ago——

Mr. **Dixon**. All right.

Mrs. **Len**. No. 3, overtime. In the past years had we—we could have reduced some of this overtime had we those 90 plus ongoing vacancies filled. That has been going on for 12 or 15 years.

Mr. **Dixon**. You know those firefighters like that overtime.

Mrs. **Len**. There will always be overtime, Chair Dixon, and they know that.

Mr. **Dixon**. There is an ongoing battle about the promotions in the fire department. There have been no permanent promotions since 1984.

Mrs. **Len**. But also we have, we as a community, including Congress and the city hall, has to think of the welfare of the firefighters and the policemen and not push them and not let them just take—go to the hilt with the overtime.

PROMOTIONS

No. 4, the promotions. None in the past 5 years due to the court case. Out of 264 authorized middle management, 224 are acting.

Mr. **Dixon**. Right.

As you said, that is because of the court case, and we had the parties that are adjudicating that case brief on the status. Hopefully, it will be resolved soon.

Mrs. **Len**. Well——

Mr. **Dixon**. We inquired into it.

Mrs. **Len**. Judge Richey has appointed an attorney from the University of Virginia.

Mr. **Dixon**. To be a master.

Mrs. **Len**. He has already talked to each of the three involved, so now I don't know how many months it will take him. Maybe I can go down there and have a visit with him.

Mr. **Dixon**. Well, it has taken, what, 5 years?

Mrs. **Len**. He has only been, though, in the last couple of months, so in the sergeants we have no full sergeants. I just wanted you to see the break down. All of them are acting.

Also, we have about 30 of 122, so that means we only have full pledged officers, middle management, 39, and that, of course, is——

Mr. **Dixon**. And everybody else is acting?

Mrs. **Len**. Everybody else is acting.

When they are acting, they don't enjoy the responsibility of discipline because they are scared to. You know——

Mr. **Dixon**. Right.

BEEPERS

Mrs. LEN. No. 5, the beepers. There were five brands tested out in the field, and the money is funded. The contract here says they are supposed to be out in the field with everybody by 1 year after the date of this contract. It is 3 years now, and they aren't out yet. However, the report has been sent in to the chief, so it is in the chief's hands.

I don't know. Chief Gallagher might have the latest on it, but it is in his hands to see that the recommendation of the safety committee goes on through, so we are far better off than we were 3 years ago.

No. 6, this is a May Day, and No. 7 is a May Day.

AIDES TO BATTALION CHIEFS

Do you remember 8 years ago when I came up here for several years in a row, and I pushed for aides. They had taken away the aides from the battalion chiefs, and I remember at least 3 years or 2 years at least, and finally it wasn't just me, but it was everybody that was involved, they brought the aides back.

All of a sudden here, because it did not get in the law, in the langnage, they all of a sudden here, June 3, they put out an order to cut back 50 percent, so we have eight battalions, and every day four of them do not have an aid for the battalion chief.

Now, there was an instant command seminar held a couple months ago. I think this gentleman may have attended. If I am wrong, he can correct me on any of these things.

Each class was 1 week, and the first 2 days of that week was conducted by the U.S. Fire Academy instructor, and one-third—now, I have researched this more than anybody really realized. One-third of the time of that week was spent on the responsibility of aides to the battalion chief.

Mr. DIXON. And they didn't have any aides or they had only some of them?

Mrs. LEN. Four of them now.

The aide, they designate, they even have a list on paper of responsibilities. He is supposed to be in the back of the building keeping the Chief in the front posted on what is going on. You can lose a life very easily if you don't have someone back there to coach you on how much help you need.

But the irony of it was that they should have this seminar not knowing that the seminar was going to bring out within 30 days of the time that they had ordered this, so we are asking that the only way that we can secure the aides is to put them in the language like we did in with Engine Company No. 3. It is identical.

I was shocked when I saw Engine Company No. 3 2 years in a row and I said, why is it in here again? We had it last year.

Well, you know, it has to be put in every year to remind the city that they can't use the moneys to deactivate Engine Company No. 3.

So I am urging you and begging you to bring back the aides issue and discuss it with whoever you want to. I can't see a battalion Chief driving a buggy and running a radio and running a siren, all three. That is not safety for him or for the community at large.

Mr. DIXON. I am with you on the aides.

RETENTION INCENTIVE

Mrs. LEN. No. 8, retention incentive.

You know about the 5 percent that they are—if you see the attached document, you will see that the Citizens Federation——

Mr. DIXON. What is this?

Mrs. LEN. The retention incentive is that at the end of 20 years they get a 5 percent, I call it bonus, but they get a—I am surprised you don't—you haven't heard about it?

Mr. DIXON. It is a retention incentive.

Mrs. LEN. They use establishment terminology. I use plain old 5-percent bonus. It is in this contract on page 61 for this contract's duration, but it also states in this contract that this will—the retention incentive shall retire the last day of the pay period of this contract, so, therefore, it will not go on into the next contract, and I understand that Mr. Levitt, who represents the city, last week was beginning to understand a little better why we are pushing so for this 5 percent, so we have got both federations behind us wanting this, and when you have time you can read the note.

Mr. DIXON. If they stay on after the 20 years, they get a one-time incentive?

Mrs. LEN. No; at the end——

Mr. DIXON. You are the one testifying. Deputy Fire Chief Gallagher is just up here listening to you.

Mrs. LEN. This is the first time it has been in the contract, this 20 years, so the city saw to it for budget reasons.

Mr. DIXON. Tell me what your understanding is?

Mrs. LEN. We need to——

Mr. DIXON. What happens at the end of 20 years?

Mrs. LEN. All right, that is why——

Mr. DIXON. Do you know?

Mrs. LEN. Two hundred seventy-six policemen went out last year in our city, 25, an average of 25 a month, and now the fire department——

Mr. DIXON. Ms. Marshall, do you know what this is? Deputy Chief Gallagher, do you want me to explain it? If you would identify yourself.

Chief GALLAGHER. Deputy Chief James E. Gallagher.

There is a difference between the fire and the police. First of all, the police at the end of 20 years, without any change in their system, receive an additional 5 percent moneys added to their salary.

Mr. DIXON. Annually?

Chief GALLAGHER. Divided by pay period. Their annual salary while they are working after 20 years is increased by 5 percent.

Mr. DIXON. A one-time increase?

Chief GALLAGHER. For as long as they work.

Mrs. LEN. Renewed.

Chief GALLAGHER. During the years October 1987 through September 1990, any police officer with more than 20 years on the police force, his salary schedule would be increased by 5 percent.

Mr. DIXON. Per year?

Chief **Gallagher**. Per year, that is true, sir.

Mr. **Dixon**. And that would be over and above any other pay adjustment?

Chief **Gallagher**. That is right. If he was a step 4 employee that made $30,000, his salary for that year will be 5 percent more, $31,500. Its base salary for that year becomes $31,500.

Mr. **Dixon**. Over and above any other increase he or she may get?

Chief **Gallagher**. That is true.

Mr. **Dixon**. And that is for two reasons, to encourage them to stay and because of their experience?

Chief **Gallagher**. It is a retention factor to give them the additional 5 percent money. However, the base increases upon his retirement, his salary, looking at the entire 12 months, it would be based at $31,500 versus $30,000.

That same police officer, by the way, was already receiving a 5-percent longevity bonus. That has been built in by the Congress for years, but never counted toward the base for retirement.

On the fire side, rather than give the fire people an additional 5 percent more moneys in their pay check annually, they just allowed them to take that 5 percent they received on the 20-year longevity and count that into the base for retirement.

Mr. **Dixon**. And this was by negotiations with the——

Chief **Gallagher**. Both of them were by negotiations with the union.

Mr. **Dixon**. Now, do you like that or don't you like it?

Mrs. **Len**. We want it. We are losing—there is too many fire fighters, 50 to 100 minimum that will go out in August if the city doesn't agree to add that 5 percent to the next contract. Is that right?

Chief **Gallagher**. What Mrs. Len is pointing out, in the police contract the word "expire" was not entered in the agreement. The Office of Labor Relations has given an opinion to D.C. Office of Personnel that the article in the police contract will remain for those who are already receiving the benefit, and will continue to receive the benefit after September 30.

The fact that the word "expire" was used in the article in the fire contract says that it expires September 30, the ruling from the director of the labor relations was it expires, in order for it to continue or for any part of it to continue, it has to be renegotiated, and the contract is up for—this contract is presently up for renegotiation and meetings should begin next week.

Mr. **Dixon**. All right. Thank you, Chief.

Mrs. **Len**. So what we are trying to get is the city to treat the firefighters the same as they treat police officers, and I can remember not too many years ago I was up here pushing for the firefighters to be brought down from 48 hours a week to 40 hours. Most cities' firefighters are treated 40 hours base. Here we have been 48 hours for years. Finally, they did bring it to 44, I believe. Is that right?

Chief **Gallagher**. 44.8 in October 1989.

Mrs. **Len**. So we still have a little ways to go.

If you will look in section 8 on the first page in the second line, I show you how D.C. budget pie, you know, the big pie for the D.C. budget, a certain percentage is given to certain agencies.

Back in—the fire department received 8 percent of that pie 12 years ago. Today, they have been brought down every year to 3 percent. The police were receiving 11 percent 15 and 18 years ago. Today, they are receiving 6 percent.

So, when the District of Columbia says the safety budget is up, but that is because that they haven't been giving us the natural part of the pie that we could have kept our overtime from going. Those little things mean a lot to the understanding of the Hill on this.

APPARATUS MAINTENANCE

No. 9, apparatus division. That is a crisis. The maintenance—now this is another part. Maintenance garage authorized 34 mechanics, and we have 10 vacancies in that garage, of which 7 are mechanics, actual mechanics that need to do the repair.

Again, this year, I repeat——

Mr. DIXON. How do you find out all these things, Mrs. Len?

Mrs. LEN. You have Mr. Miconi as an assistant, don't you? I get it from the horse's mouth, Mr. Chairman. I don't just call up on the phone. I need to get where I need to go to get it. I get that on the phone, but then I go in person. I think that is one thing that put me where I was for awhile.

Mr. DIXON. In the hospital.

Mrs. LEN. Every other day I need to charge my battery for the next day.

We need twice the number of mechanics, twice the size of the workshop and twice the size of the parking lot for waiting vehicles.

Now, because we don't have those mechanics, the work backs up, and in January 1989, when the District government put a freeze on hiring, the fire department and the police department contacted city hall requesting they—the city exempt the fire, the policy, and I think corrections, on this hiring freeze. However, they didn't include the apparatus, which is the garage that maintains the upkeep of these vehicles.

Now, if your vehicles aren't kept up and your policemen get out there in cars or the fire department, we are going to find maybe problems that could happen on the street, so we are urging that the city and that the Hill see or Congress, rather, see that the mechanics, that these garages are also exempt.

I talked to personnel this morning. I spent an hour with somebody in personnel. Incidentally, I have two names to give to Mr. Miconi and Mr. Leeth and phone numbers for people in personnel that will explain the—we are still having problems with the residency, so don't let anybody kid you it is all hunkydory. I hope I got a point on the maintenance.

Mr. DIXON. You did.

HIRING FREEZE

Mrs. LEN. No. 10, hiring freeze. I took care of that.

VENTILATION IN STATION HOUSES

No. 11, ventilation. Again, I remind Congress and the District government and the community, we are contributing every day to the health and welfare of the lungs and of the firefighters that work in those station houses because we haven't got the right ventilation. There needs to be——

Mr. DIXON. You mean in the fire house itself?

Mrs. LEN. In the fire houses. Congress needs to mandate an audit of all the station houses, 33 of them, and I could give you a lot of things for GAO to do over in that District Building that would keep them busy.

I remember telling you a couple of years ago they could take some work to look after.

FIREFIGHTER TRANSFERS

Anyway, No. 12, firefighters, when a firefighter is unhappy in a station house and wants to transfer to another station, the transfers this past year have slowed down tremendously, and you have two specialized fields. You have the fire boat and the Hazmat.

The fire boat is a unit, they can't just say send me a back up because they can't—but the Hazmat unit is something a little different. However, we spend money and time on that and I remember up here fighting for a whole new Hazmat unit. We converted a squad to Hazmat. Finally, we got that, but suppose it was to go work on Hazmat, I have been wanting to do it—I wasn't given the Hazmat and I can't get a transfer to it.

Well, they tell me that they don't have a vacancy, but I find out that one of the firefighters is unhappy there because after being there for 6 months, he is—it is not his cup of tea because it is very detailed and it is very ongoing scientific.

It is the fire boat, the fire boat is worked constantly to keep the boat up and keep the mechanics, and the fire boat needs—we only have one licensed pilot and one licensed, fully licensed engineer, and we need only people to be assigned down there. I said this last year. I remember. We don't need any dead wood at the fire boat. We need people who want, and I know people who would like to be transferred down there, but they claim they don't have a vacancy, but they don't put the word among the firefighters, look, we have got somebody who wants to come down here, anybody want to transfer somewhere? They don't do that, and this helps to contribute to the unhappiness.

Mr. DIXON. Are you saying they are running an elitist group down there? Is that what you are saying?

Mrs. LEN. I am very close to boats. My father was electrocuted on a boat. He didn't drink or smoke. He plugs the extension cord into a—he carried it on board, plugged it into the battery charger in the morning early and was going to let it run all day for 12 hours. He was down there visiting for a few days, and then when he came home at night he was going to plug the battery charger into the engine, the Chrysler engine. He had a 38-foot Matthews, and about 9:30 in the morning one of the politicians living in the area saw his car parked, said, oh, Arthur must be in town, I will go in and tell him hello. He found him sprawled between his motor wheel with a hot line between his wires. He said his body was in a sweaty condition.

Of course, the boat is not grounded, and there are two metal points that come out of a—that go into the battery charger for the electricity, and his fingers—they still found those two points between his fingers. So, as I say, I am very close to boats, and I don't think it is an elitist group.

The Hazmat could be an elitist group if you are going to tag them with some kind of a name like that.

Mr. **Dixon**. You are saying there are people that want to work there but they never know when the positions are available and the department tells them there are no positions available. Is that what you are saying.

Mrs. **Len**. Right, because maybe a firefighter is afraid to say that he wants to be transferred out somewhere, and put when you bring in a ranking official to serve as an officer on the fire boat and everybody that is on that staff should be learning boating and marine courses, and learning something about the boat, everybody, not just sit back and let the other people do it.

Then, let's see, where are we?

CADET PROGRAM

Mr. **Dixon**. Fifteen cadets failed the cadet class.

Mrs. **Len**. The last cadet class had 15 who failed. They came aboard from the—I don't know how many we are on, but 15 of the class were failed. They were sent to school for a couple of days, then they were sent out in the system and after the end of a year they were sent back to take a full course, and then a test, and 15 of them failed the test. They were given a choice of retiring or resigning. Three of them decided to resign, but I understand that up until yesterday the fire department was considering them.

Well, now, that has been rumors for several weeks, and that is very demoralizing. When people work hard to take a test and then they pass, but now I understand that they may try to bring these back.

Now, we don't know what background——

Mr. **Dixon**. What is it you would like me to do?

Mrs. **Len**. To bring them back to make them EMT's. We do not—some of us do not think that once people have been through any part of a course with the fire department——

Mr. **Dixon**. You are saying emergency medical technicians?

Mrs. **Len**. Yes; what is their background and so forth that makes them emotionally stabilized for being an EMT? If they think fire department work is hard, they ought to be on the EMT's. Then your training school down there, the burning building was condemned over 1 year ago, and we have to send our classes over to jurisdictions of the surrounding area, so we need—did I have that in my own writing in No. 14?

Mr. **Dixon**. You have about 3 minutes now.

RESCUE SQUAD

Mrs. **Len**. The rescue squad, No. 3, doubles as a cave in unit.

DISCIPLINE OF OFFICERS

No. 16, the discipline of house officers, captain or acting captain has been too slack for many years.

FIRE HOUSE MAINTENANCE PROBLEMS

No. 17, engine 20—this is minor. Engine 20 back door screen, three quarters of it has been gone for a couple years, and it has been reported over and over again.

Mr. DIXON. I am sure the next time you go out, the chief is going to get that one fixed.

Mrs. LEN. That is why I didn't let this out before.

Engine E-28, received a letter from Miss Chestnut 1½ years ago about the leak in the walls from the ceiling.

When that house was renovated in 1982, that roof was supposed to have been replaced, and instead it was dressed up so that you thought it was replaced, and it has turned out that at least twice they have dressed up, dressed up the walls, and what do you call it, shore them up, more or less, and paint it and made it look new. They did that.

It took them 1 year to do it, and finally when they did it in a few months time it is beginning again. The source of the problem is in the roof.

Now, engine 19, firefighters ordered. They are ordered on the air, the vocal, the firefighters are ordered to drop the word "chief" after battalion, and we feel like that waters down the image of the chiefs authority and respect due him.

So, 20, thank you for past help.

The fire and police desperately need you now more than ever. You know what I was thinking when the school was telling us about the condition? I have been in some of those schools as many as 20 years ago, and I brought a sample of the asbestos padding from the wall to my home so that some day I could show it, and I thought, well, gee, all they have to do is go to the fire department and they will find problems that they have had, too, for 20 years, but, of course, the children are more important, in a way, not any more important than the firefighters, but the children need a clean, wholesome environment to be in, and I think that the public works department is failing us in many, many ways.

Mrs. LEN. So, any questions?

Mr. DIXON. No; I don't think——

Mrs. LEN. Mr. Leeth?

Mr. DIXON. Mr. Leeth, do you have any questions?

Mr. LEETH. No, thank you, Mr. Chairman.

PREPARED STATEMENT

Mrs. LEN. I can't believe it, that you don't have one question.

Mr. DIXON. But we will check into a lot of these things as we naturally do for you.

Mrs. LEN. Well, we thank you.

[The statement follows:]

STATEMENT OF L.L. LEN

Greetings.

Manpower (per Fire Chief 100 plus vacancies) (plus 90 plus vacancies carrying for many recent years.)

Overtime, past years, could have been reduced some had we had 90 plus ongoing vacancies filled.

Promotions: None in past five years due to court case—(out of 264 authorized middle management 224 acting).

Rank	Authorized	Full pledged	Acting
Sergeants	76		76
Lieutenants	122	[1] 30	92
Captains	6	9	57
Total	264	39	225

[1] Most.

Beepers: Five brand field research plus papers left Safety Officer May 30, 1990 for Fire Chief (Money funded). Two years late thus far per union contract.

Battalion Chief Aides: June 3, 1990 ordered to cut back 50 percent: 4 out of 8 Aides. Must be spelled out in D.C. Budget Bill (The Law) like annually Engine 3 is placed in the final bill year after year.

"Instant Command" Seminar: Recently 3 classes—week per class. U.S. Fire Academy Instruction first two days per week. One-third time spent on instructing Battalion Chiefs on the Aides responsibility of coordinating back building—of conditions. Easily can be Life or Death. (Plus keeping all slots filled in companies.)

"Retirement Incentive"—5 percent: See attached documents from citizenry. (D.C. Budget PIE Fire gone down from 8 percent to 3 percent. Police gone down 11 percent to 6 percent); yet D.C. say Safety budget up.

Apparatus Division (Maintenance garage) authorized 34 mechanics and have 10 vacancies. Again this year I repeat we need twice the number mechanics—twice the size work shop (not A/C)—twice the size parking lot for "waiting" vehicles.

Hiring Freeze in January 1990 exempted fire, ambulance and police. Apparatus Division (Mechanics) turned down by City Administrator—(crisis in repairs) 10 vacancies need filled PRONTO Repairs backing up.)

Ventilation again I remind Congress, the D.C. government and the community for decades have been contributing daily to unpure air (negatively) for Health and Welfare (lungs) of fire fighters.

Fire Fighters transfer requests slowed down too much past year: Need committee of three (one Local 36) to evaluate transfer requests and recommend to Fire Chief their findings.

Fireboat and Haz Mat are highly specialized fields needing only those assigned there who to be there and agree to take respective courses therein.

Last Cadet Class: 15 failed (being reconsidered by fire department): Not acceptable. Cadet program must be upgraded.

Rescue Squad III doubles as "CAVE IN" unit.

Discipline of House Officers (Captain or Acting Captain) been too slack for many years.

Engine 20 back door Screen three-quarters gone: repeated reporting not seem to help, for past couple years.

E-28 Renovated 1982: Roof not done correctly—2nd floor wall suffering, ever since. Cosmetic repairs no good.

Fire Fighters ordered on air (vocal) to drop word "Chief" after Battalion waters down image of Chief's authority and respect due.

Thank you for past help: Fire and Police desperately need you now more than ever.

LETTER FROM RONNIE L. EDWARDS, PRESIDENT, D.C. FEDERATION OF CIVIC ASSOCIATIONS, INC.

JUNE 20, 1990.

The Honorable MARION S. BARRY, JR.,
Mayor, District of Columbia, District Building, 5th Floor, 1350 Pennsylvania Avenue, N.W., Washington, D.C.

DEAR MAYOR BARRY: Please note the June 14, 1990 Resolution from the D.C. Federation of Citizen Associations, Inc., regarding the "retirement retention incentive" of five percent for police and fire.

Becaue of the timing element of the current contracts, we are urging you to give this matter your immediate attention; and please advise us accordingly.

Respectfully submitted,

RONNIE L. EDWARDS,
President.

The D.C. Federation of Citizens Association on June 14, 1990 passed at their regular monthly meeting the following resolution:

Because of the impact that the D.C. Fire and Police Departments may suffer due to the loss of veteran members—who are eligible to retire from these forces—because of the loss of the Basic Retention Differential (B.R.D.)—5 percent or what is titled "Retention Incentive" by the Fire Department that the Mayor immediately

1. Resubmit that portion of D.C.C.C. PR 8-379—5 percent that all Police Officials and Fire Officials be assured that this incentive will continue.
2. Direct the Office of Labor Relations to continue the Basic Retention Differential—5 percent for the Police Union (FOP) and the Fire Union (Local 36) until their new contracts are negotiated.

JAMES J. MOLINELLI,
President.

[From the Christian Science Monitor, Apr. 12, 1989]

ETHICS CHIEF DIXON SEEN AS "QUIET, EFFECTIVE"

CHAIRMAN OF "NO-WIN" HOUSE COMMITTEE LIKES TO WORK BEHIND THE SCENES, AVOID THE SPOTLIGHT

(By Robert P. Hey)

Julian Dixon explains quietly to reporters in measured tones what the House ethics committee he chairs has concluded thus far in its investigation of then-Speaker of the House Jim Wright. Representative Dixon, like other committee members, emphasizes the bipartisan nature of the committee's conclusions.

It is a characteristic appearance by the California Democrat. He is perfectly capable of operating in a spotlight, but unlike some political figures, he seems to take no delight in doing so.

"What you see is what you get," veteran Congress-watcher Norman Ornstein says of the man who has taken the lead role in the ethics investigation of Mr. Wright by the House Committee on Standards of Official Conduct, as his committee is technically called. Representative Dixon has "basically a quiet and a very effective style," adds Mr. Ornstein, a resident scholar at the American Enterprise Institute. "This is an extremely bright, deep man—a thoughtful man, a tough man."

For the past four years Dixon has chaired the 12-member House ethics committee, the quintessential no-win position in Washington. The committee and especially its chairman face the accusations of either being too easy with House members accused of wrongdoing or too hard with them. And sometimes both at once, as in the Wright case.

For the moment Dixon and his 11 colleagues are receding slightly from public view, with the resignation of Wright from the speakership.

But other investigations and renewed spotlights may be in store. They are likely to begin with charges of a questionable book-publishing arrangement against Rep. Newt Gingrich of Georgia, the new House Republican whip who started the accusations against Wright. Mr. Gingrich says he as done nothing wrong, but some Democrats seek an ethics committee probe anyway.

How many probes may be in the offing thereafter depends on whether House Republicans and Democrats decide to call a truce in the ethics war, or to fire volley after partisan volley.

For its part, the ethics committee is supposed to be strictly nonpartisan. It is the only House committee evenly divided between the parties, with six members from each.

If the first test is to be nonpartisan in its action, which most House members think the current committee has passed, the second is to avoid self-righteousness. People who are forced into a position of being ethically judgmental, as the committee was in the Wright case, often find there is a tendency to become self-righteous, says Michael Josephson, of the Josephson Institute for the Advancement of Ethics. Succumbing to that tendency takes away from the effectiveness of their conclusions, he adds.

Under Dixon's leadership the committee did "an extraordinary job of steering away from seeming to be self-righteous and instead being judicious," Mr. Josephson says. Since a chairman is primarily responsible for establishing the atmosphere within a committee, "I think Dixon's got to get some of the credit for this," -heads.

In Congress Dixon gets credit for something equally important. "People see him as honest, as an honest broker," Ornstein says.

Dixon is one of several ethics committee members who also serves on the House Appropriations Committee. "That's not just coincidence," Ornstein says. In both committees "the premium is not on headlines but on doing work" inside the committee, away from the media, he says. "That may make them faceless to the Washington community" outside Congress, as Ornstein puts it. But they are known and respected within it.

Business Briefs and Political Notes by Tony C.

Louisiana has low and dismal rankings, when compared to the other States—but how about the USA's ranking when compared to the other countries in the world? Well here we go—

Did ja know? That a United Nations Survey showed that on literacy the United States of America ranks a pitiful 48th out of 149 countries?

According to recent news columns in the daily papers, *Louis* v. *Gerstner*, who is the CEO (Chief Executive Officer) of the giant RJR/Nabisco Corporation, in speeches in both New Orleans (to the Democratic Leadership Council) and then in Cleveland, Ohio (to a group of Corporate Leaders), stated that today we are "unexpectedly celebrating the collapse of communism. In a decade, we might behold the collapse of the United States." The column by Robert C. Maynard then reiterated a fact which is hard to refute—and that is the sorry statistic that "The Public School systems (of our country) are responsible for producing 1½ million illiterates a year—more than 10 million in the last 7 years".

Can you imagine such a thing? Well you better believe it. And if something isn't done soon, it surely will wind up as Mr. Gerstner said it—and he further said, and we agree—that "the American dream may be on the verge of dying. He said the American Dream's probably over for the next generation of Americans unless we mobilize all our resources to turn back a rising tide of illiteracy, innumeracy, indifference and mediocrity."

In explaining that the American work force is declining intellectually, he states that "one-third of American high school students cannot calculate the change from a Big Mac and large fries—and all this when Europe and Asia are rising in world economic pre-eminence with well-trained, literate, multilingual work forces."

When is this country going to wise up and fly right? It better be damn soon.

Housing Rehabilitation Loan

STATEMENT OF CATHERINE McCARRON, D.C. RESIDENT

PREPARED STATEMENT

Mr. Dixon. Ms. McCarron has arrived. OK, Ms. McCarron, you are here as a D.C. resident.

Ms. McCarron. That is right.

Mr. Dixon. Are you interested in the fire department?

Ms. McCarron. No; not today any way. This was a bigger problem, to get 10 copies of all this stuff. It was a bigger job than I anticipated.

I am here to tell you about a personal——

Mr. Dixon. First of all, state your name for the record.

Ms. McCarron. Oh, sure.

My name is Catherine McCarron. I live at 1312 21st Street, Northwest in Washington. This was a personal problem, but I think it probably could be multiplied many, many times. It is just an example of the D.C. government today.

[The statement follows:]

Statement of Catherine McCarron

Thank you for the time to present a story which, I believe, reflects on the quality of the current administration in D.C.

Because of the brief time we are given to testify, I believe if you will later read the accompanying material you will understand the complicated, bewildering, and bordering on the fraudulent treatment given to this D.C. citizen and taxpayer.

Some of my friends have referred to it as a scam. The process lasted over five years.

Briefly, my sister and I are fifth generation Washingtonians. I reside in the house my parents bought seventy years ago. My sister and her husband and family live in California due to a job transfer fifteen years ago. Since we are all senior citizens now with reduced income and in an effort for me to continue living in the house, I applied for a rehabilitation loan in January, 1985. The application process was completed—three months later. The house is a 1893 custom built Victorian with appealing details and amenities and in a great neighborhood, Dupont Circle. I even hoped to be able to pass it on to my nieces and nephews.

You will notice (Item #1) loans were offered up to $95,000 for four unit properties. Our house had three which were installed prior to 1958, when the code requirements were changed. My house was inspected about December of 1986. See (Item #3) states that owner was to provide a complete set of working drawings. This application dragged on and on. There would be months when I heard nothing. I would drop in the office from time to time since I could never reach anyone by phone and my calls were never returned. Frequently new people would show up as others were transferred out. I believe now middle management personnel were being hired, and yet I heard nothing. Eventually, I demanded a letter specifying approval of a loan before I would begin working with an architect. (See Item #4) Our plans were always tentative because I never knew exactly how much money I could borrow. Plans varied from 1 basement apartment to 2 apartment units both with owners apartment. All this time, costs for renovation were increasing. We finally requested and accepted a bid proposal from a contractor whose work had been inspected by my architect. This brings us to January, 1989. (See Item #4a) The enclosed newspaper article dated September 23, 1989 confirmed my worst suspicion, but I continued with my request. (See Item #5)

Further details had to be updated such as proof of property taxes, water bills etc. paid to date and a deed of trust, 40 years old, which had to be cleared and released by the bank etc.

We thought then we were ready to go. I even obtained promise of a loan which I knew I would need to supplement the government loan.

At this point Mr. Robert Leland, Acting General Manager, Bureau of Single Family Finance enters the picture. After several of my friends and I had a conference with a Mr. Carter and a Mr. Jackson. I and a friend later met with Mr. Leland. By this time, the office was cleared, I was told of all previous managing personnel. Mr. Leland's opinion of the project, and his refusal of the original loan are in the accompanying letters. Verbally, he even told me they certainly could not lend me money to renovate enough to prevent further deterioration if I planned to sell the house. (See Items #7 through 11)

I feel that some legislation is needed to prohibit federal funds appropriated to be diverted to other than the original designation. Also, annual audits should be mandated. I'm now left with a bill of $7,600 to my architects and no chance to retain our home. (See Item #6)

I'm pleased to answer all questions now or later. I can be reached at 1312 21 St. N.W., D.C. 20036.

ITEM NO. 1

CENTER CITY COMMUNITY CORPORATION PRESENTS A SINGLE FAMILY HOUSING REHAB PROGRAM WORKSHOP

Date: December 5, 1985.
Location: 1126 First Street, NE.
Time: 11 a.m.
Guest speaker from the Department of Housing and Community Development.

The Single Family Housing Rehabilitation Program is a source of low-cost financing for the rehabilitation of one to four unit housing which is either owner-occupied or investor owned and located primarily in designated Community Development Areas within the District of Columbia.

"YOU MAY BE ELIGIBLE TO RECEIVE A REHAB LOAN"

The loan limits for owner-occupied housing range from $50,000 for single unit properties to $95,000 for four unit properties.

For further information contact: Center City Community Corporation, 1126 First Street, NE., Washington, DC 20002, phone: 898-0988/0989/0990

ITEM NO. 3

DISTRICT OF COLUMBIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, NEIGHBORHOOD IMPROVEMENT ADMINISTRATION, CONSTRUCTION SERVICES DIVISION

Inspection report for:
Address: 1312 21st Street, NW.
Owner(s): McCarron, Catherine.
Telphone: 296-7781.
Date:
Construction analyst: Kermit Hull.
Structure: Row Semi-det Det Other______ Stories 3 Br. 5 Units (existing) 1 Units (proposed)______.

SKETCHES

Note: Owner to provide complete set of working drawings.

ITEM NO. 4

LETTER FROM WASHI WALI, ACTING CHIEF, SINGLE FAMILY HOUSING REHABILITATION DIVISION, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, GOVERNMENT OF THE DISTRICT OF COLUMBIA

AUGUST 1987.

MS. CATHERINE MCCARRON,
1312 21st Street, N.W., Washington, D.C.

DEAR MS. MCCARRON: This letter is in response to your request to obtain additional financing for the rehabilitation of your property.

After consideration of your request, it has been determined that we will not be able to provide additional funds for your rehabilitation effort.

Therefore, we are again offering to provide you a loan in the previously committed amount of $112,241 for 360 months. These funds will be utilized as follows:

Construction amount	$90,300
Contingency	13,545
Taxes and insurance	1,686
Fees (title, recordation, architectural fees)	6,710
Total	112,241

If clarification is required, please contact Ms. Mable McNeil of my staff.

Sincerely,

WASHI WALI,
Acting Chief, Single Family Housing Rehabilitation Division.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
WASHINGTON D C

BID AND PROPOSAL

D.C. DHCD/NIA
RECEIVED

'89 FEB -6 A11 :41

DATE: January 16,1989

RE: Catherine McCarron
NAME OF PROPERTY OWNER

NAME OF PROPERTY OWNER
1312 21st. Street,N.W.
Washington,D.C.
ADDRESS OF PROPERTY

Gentlemen:

We propose to furnish all labor and materials in accordance with the Work Write-Up and or Plans and Specifications contained in pages A-1 thru MEP 6total 6 dated 12/29/88 of the attachment.

We further propose to complete the rehabilitation of the referenced property for the sum of Ninty Seven Thousand-Nine Hundred-Ninty Five and no/100Doll
(Please write amount in words)
DOLLARS ($ 97,995.00)

The proposed price indicated above shall remain firm for sixty (60) days from the above date.

I enclose a true copy of my District of Columbia Home Improvement Contractor License with this proposal.

J & A General Contractors
NAME OF CONTRACTOR
8824 First Avenue
Silver Spring,Md. 20910
585 2223
ADDRESS OF CONTRACTOR

Signature of Contractor
(where contractor is incorporated, an officer of the corporation must sign)

223872
D.C. HOME IMPROVEMENT LICENSE NO.

Owner
TITLE (if officer of corporation).

PHONE # (O) 585-2223 (H) 589-6917.

1/16/89
DATE

_______ I (we) have reviewed the bids which were submitted and regret to
Initial advise you that your bid is rejected.

_______ I (we) have tentatively selected the proposal of J & A General Cont.
Initial NAME OF CONTRACTOR

1-25-89
DATE

Catherine G. McCarron
HOMEOWNER

DATE

HOMEOWNER

Item No. 5

[From the Washington Post, Sept. 23, 1989]

D.C. Council Committee Hears Housing Loan Horror Stories

(By Nathan McCall)

Ednajane Truax had resolved to hold firm yesterday when she went before a D.C. Council committee to relate her trials in getting her house refurbished through a city housing program.

But in her testimony before the Housing and Economic Development Committee, as Truax talked of redtape, money-grubbing contractors and her house, which she said now resembles a "construction site," her voice cracked.

"I promised that I wouldn't get emotional," Truax said as a roomful of spectators in the council chambers looked on.

Truax said she applied in November 1987 for a $59,000 loan through the District's Single-Family Housing Rehabilitation program. Funded with Community Development Block Grant money provided by the U.S. Department of Housing and Urban Development, the program provides low-interest loans for D.C. residents to renovate their homes.

Truax told the gathering she expected the loan approval process to take from 10 months to a year. But not until July 27—nearly two years after she applied—did the city end her wait. She said the Department of Housing and Community Development, which administers the loan program, rejected the loan, saying the amount requested exceeded the $50,000 limit.

Now, after the long delay, Truax is seeking loans from other sources. Meanwhile, Truax, a registered nurse, said she has tried to do, among other things, plastering and roof repairs to her 100-year-old Victorian house in the 600 block of Ninth Street NE, and the place is a shambles.

"I have been living in a construction site. I feel that I don't deserve to be treated like this, and I think that no one else deserves to be treated like this," she said.

Truax's troubles highlighted a long list of problems within the Department of Housing and Community Development that led HUD in July to recommend suspension of the department's multimillion-dollar loan programs. The suspension resulted from an earlier HUD audit that found the housing department had failed to ensure that more than $38 million in block grant funds were allocated properly or used for legitimate purposes in fiscal 1986 and 1987.

Other problems cited in the HUD audit were probed at yesterday's hearing, called by Council member Charlene Drew Jarvis (D-Ward 4), who heads the housing committee: namely, that when rehabilitation loans are approved, construction work done by city-recommended contractors is often shoddy; that department personnel are not trained to inspect the quality of the work as required; that the department is too slow in processing loan applications such as Truax's, sometimes taking more than two years to compete the process.

Housing and community development officials acknowledged that only two of the 28 staff members process the hundreds of loans submitted to that office.

Some community and housing advocates who testified in the day-long hearing said the city could save money by setting aside a portion of the housing loan funds for nonprofit developers, who they said generally refurbish housing for less than for-profit contractors.

Jarvis, who said the department's inadequacies reflect badly upon public officials, expressed outrage at the department's problems.

"I am publicly embarrassed," she told the department's director, David S. Dennison. "We can't have it anymore, Mr. Dennison."

Jarvis directed Dennison to prepare a comparison of nonprofit and other contractors' construction costs and meet with her next week to discuss the findings.

Jarvis said after the hearing that she hopes to rectify some of the department's deficiencies by November, when HUD will assess the city's response to its audit findings.

Dennison said after the hearing that he viewed complaints as "constructive criticism" that will lead to improvements in his department.

AIA DOCUMENT B151

ABBREVIATED FORM OF AGREEMENT BETWEEN OWNER AND ARCHITECT FOR CONSTRUCTION PROJECTS OF LIMITED SCOPE—1987 EDITION

This document has important legal consequences; consultation with an attorney is encouraged with respect to its completion or modification

AGREEMENT made as of the twenty-eighth day of September , in the year of Nineteen Hundred and eighty-seven.

BETWEEN the Owner: Mrs. Catherine McCarron, 1312 21st Street, NW., Washington, DC 20036 and the Architect: Smith Blackburn Stauffer, 1228½ 31st Street, NW., Washington, DC 20007.

For the following Project: Renovation of 1312 21st Street, NW, to create two rental units in existing house while maintaining owner's occupancy.

The Owner and Architect agree as set forth below.

LETTER FROM MS. CATHERINE MCCARRON

AUGUST 19, 1988.

Mr. WILLIAM HOBBS,
Acting Administrator, Neighborhood Improvement, D.C. Government.

DEAR MR. HOBBS: I'm writing this in your office on Friday morning August 19, 1988.

After more than three years of waiting and completing all steps requested, it seems there is now a hold-up on my loan for home improvement.

I have requested and received preliminary plans from my architect for the project. He has set aside some time for further work and consultation, and it seems we are at a stale-mate here.

In consideration of the above difficulty, I'm requesting, at the suggestion of Mr. Chase an immediate appointment with you to talk about this, and to receive approval for the necessary money. Enclosed is copy of the letter from my architect to me.

Sincerely,

(MISS) CATHERINE MCCARRON.

LETTER FROM DONALD H. GREGORY, JR., PROJECT MANAGER, ARCHITECT AND PLANNERS, SMITH BLACKBURN STAUFFER

OCTOBER 26, 1988.

Ms. CATHERINE MCCARRON,
1312 21st Street, N.W., Washington, DC.

DEAR MS. MCCARRON: We are prepared to begin the construction documents phase for the addition and remodeling of your house. I have attached floor plans for the basement apartment and the remodeling of the first floor, for your comment and approval. I have also attached a general outline of the scope of work we feel can be accomplished given the available funds. When the contractors bids are returned and evaluated we can amend this scope up or down as desired.

If you have any questions or need further clarification please do not hesitate to contact me.

Sincerely,

DONALD H. GREGORY JR.,
Project Manager.

ITEM NO. 6

SMITH BLACKBURN STAUFFER,
ARCHITECTS AND PLANNERS,
Washington, DC, August 15, 1989.

Ms. CATHERINE MCCARRON,
1312 21st Street, Washington, DC.

Invoice No. 89230.
Project No. 87036.00.

Professional Services: July 1, 1989 through July 31, 1989.

OUTSTANDING INVOICES

Number	Date	Amount
88172	August 22, 1988	$2,029.54
88199	September 20, 1988	255.55
88243	October 19, 1988	222.83
88280	November 22, 1988	1,542.93
88296	January 6, 1989	2,440.66
88373	February 8, 1989	1,141.95
88439	March 3, 1989	30.35
Total		7,663.81

ITEM No. 7

LETTER FROM ROBERT C. LELAND, ACTING GENERAL MANAGER, BUREAU OF SINGLE FAMILY FINANCE, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, GOVERNMENT OF THE DISTRICT OF COLUMBIA

FEBRUARY 27, 1990.

MS. CATHERINE MCCARRON,
1312 21st Street, N.W., Washington, D.C.

DEAR MS. MCCARRON: Several weeks ago I received the message from Ms. Carter of my staff that you were giving more consideration to the sale of your property, since your brother-in-law and sister will not be able to contribute financially to renovation and maintenance of the property. In light of this information, we have put on hold any further consideration of your financing request pending clarification of your plans.

We would appreciate hearing from you as soon as possible.

Yours truly,

ROBERT C. LELAND,
Acting General Manager, Bureau of Single Family Finance.

ITEM No. 8

1312 21ST STREET N.W.,
Washington, D.C.

MR. ROBERT C. LELAND,
Acting General Manager, Bureau of Single Family Finance, Department Housing and Community Development.

DEAR MR. LELAND: This is in response to your letter of February 27, 1990 and our subsequent conversation at the Department's budget hearing on March 2, 1990.

You advised me on March 2 that the plans for apartments in the renovation of our house were not economically feasible. Would you please send me a detailed explanation with figures, to support your contention.

Though you personally have been involved with my loan application only since January of this year, I believe you have some familiarity with its history. In essence the following is the reason for the initial request five years ago. My sister and I are fifth generation Washingtonians. Our family has always resided in Foggy Bottom and in this house in Dupont Circle bought by our parents seventy years ago. Though my sister now lives in California because of her husband's job transfer, we both wanted to preserve the house and to retain it in the family. My brother-in-law is now retired.

If we assume your position is correct, would it be possible to obtain a smaller deferred loan for some basic improvements such as roof repair and painting, plumbing and wiring. I have been involved in interviewing six brokers and their agents, have talked to several others by phone and have placed two ads myself. I came to the conclusion that this is not the best time to sell if we want to obtain a fair price. Apparently, the rumor has spread that it's a slow market and sellers should be willing to lower their prices.

I would appreciate a speedy answer to my request. I feel I deserve top priority in view of my long, long wait for my loan application to be processed. An answer within a week would be appreciated.

Sincerely yours,

(MISS) CATHERINE MCCARRON.

ITEM NO. 9

LETTER FROM ROBERT C. LELAND

MARCH 16, 1990.

MS. CATHERINE MCCARRON,
1312 21st Street, NW., Washington, DC.

DEAR MS. MCCARRON: It is with considerable regret that I write this letter to inform you that I have decided to deny your longstanding request for financing to rehabilitate your residence.

As I mentioned to you at the recent budget hearing, I have discussed your case with others involved in the final approval of your loan request. Based on those discussions, I have concluded that approval is highly unlikely. My conclusion is based on the limited funding currently available for the Single Family Rehabilitation Loan Program and the high loan amount required to rehabilitate to code standards the three units in your property.

Based on the preliminary estimates of rehabilitation cost received to date, your project would substantially exceed the regulatory loan limits of the program. Even though the limits may be waived by special approval of the Director of this Department, any further consideration of your case would require you to risk the expense of additional architectural design service; to prepare complete final rehabilitation plans. Given the unlikely prospect of approval, I believe that the financial risk to you of additional design services is an unreasonable condition to expect you to have to meet, given your limited financial circumstances.

As for your inquiry about the availability of roof repair assistance, the Department does operate a Roof Repair and Replacement Program. However, the Program currently has over 200 very low income applicants who, in many cases, have been waiting for up to two years for financial assistance. Many of these are homes with major roof failures which have caused substantial interior and structural damage. In light of the demand on this Program, I cannot give you any assurance of consideration for assistance in the foreseeable future.

I regret that we cannot be helpful to your situation. Please feel free to call me if you need clarification of any part of this letter.

Yours truly,

ROBERT C. LELAND,
Acting General Manager, Bureau of Single Family Finance.

ITEM NO. 10

LETTER FROM ROBERT C. LELAND

APRIL 30, 1990.

Miss CATHERINE MCCARRON,
1312 21st Street, NW., Washington, DC.

DEAR MISS MCCARRON: This is in further reply to your recent undated letter.

As I reviewed with you over the telephone, it is my opinion that the renovation of your property into three apartments would be economically infeasible without concessionary financing or a substantial owner's cash investment. My conclusion is based on a rough calculation that the rental income, using your higher estimate of $1,000 to $1,200 per month for each of two rental units, would not be sufficient to cover the debt service, real estate taxes, insurance and other operating expenses normally associated with a small rental property. The economics are improved if all three units are income producing, but your unit obviously will only contribute to the expense side of the ledger. To an investor, your property is less feasible as market rental housing because the added cost of acquisition, which you do not have, would also have to be financed. The most probable market for your property is either a personal residence for someone willing to pay the price for your location or a small professional office conversion.

Further, without significant liquid assets, your financial circumstances would make it very difficult for you to sustain a prolonged lost of rental income or a major property expense. It seems to me, therefore, that the conversion of your property to a rental units may put you at a greater financial risk, without providing any additional personal income. It is also possible that the cost of conversion to meet current codes for apartments would not be fully realized in enhanced market value, if my contention is accurate that the market economics of a rental conversion would be infeasible. In such a situation a prospective purchaser would not be willing to pay more than an economic value, which may be less than its present as-is value for other uses.

In light of the above considerations, I have concluded, in fairness to you, that we cannot continue to give you reason to expect financing through our program. If you have any questions about my decision, please feel free to call me at 535-1342.

Sincerely,

ROBERT C. LELAND,
Acting General Manager, Bureau of Single Family Finance.

ITEM NO. 11

WASHINGTON, D.C., *May 3, 1990.*

Mr. ROBERT C. LELAND,
Acting General Manager, Bureau of Single Family Finance, D.C. Government.

DEAR MR. LELAND: My "recent" letter to you may have been undated, but my P.O. receipt for the same was dated April 11, 1990. Also, I'm sure my letter was or should have been stamp-dated on the day it was received by your office. Therefore instead of the reply within one week, as I requested, it took three weeks for a reply from you.

Thank you for all the detailed explanation of why you believe the proposed apartment project for my house was not economically feasible. Thanks also for your real estate sales advice. Though you gave a comprehensive answer to my request for roof repair, you ignored my request for a loan for painting, plumbing, and wiring to prevent further deterioration and to make the house more livable during the perhaps two years until it can be sold. Also, I wonder if the long-suffering people living in those houses with roof failure are the same I heard about when I first applied for my loan five years ago. Perhaps they are the same I heard about at the Energy Office when I first applied for assistance there at least eight years ago.

I would appreciate a prompt, and full, answer to my request for a loan for the additional items.

Sincerely yours,

(MISS) CATHERINE MCCARRON.

STATEMENT OF CATHERINE MC CARRON

Ms. MCCARRON. I will read it because I put all this effort into it. Thank you for the time to present a story which I believe reflects on the quality of the current administration in the District of Columbia.

Here are extra copies.

Because of the brief time we are given to testify, I believe that if you will lay or read the accompanying material you will understand that complicated, bewildering, and bordering on the fraudulent treatment given to this D.C. citizen and taxpayer. Some of my friends have referred to it as a scam. The process lasted over 5 years.

Briefly, my sister and I are fifth generation Washingtonians. I reside in the house my parents bought 70 years ago. My sister and her husband and family live in California due to a job transfer 15 years ago.

Since we are all senior citizens now, with reduced income and in an effort for me to continue living in the house, I applied for a rehabilitation loan in January 1985. The application process was completed 3 months later.

The house is an 1893 custom built Victorian with appealing details and amenities and in a great neighborhood, I think, Dupont Circle. I even hoped to be able to pass it on to my nieces and nephews.

You will notice, and that is item three of this accompanying—excuse me, item one, loans were offered up to $95,000 for four unit properties.

Our house has three which were installed prior to 1958 when the code requirements were changed. In 1958, we didn't have anymore apartments, but some of the things still stayed there. See item three. Note that owner was to provide a complete set of working drawings. That is on item three down at the bottom.

This application dragged on and on. There would be months when I heard nothing. I would drop in the office from time to time since I can never reach anyone by phone and my calls were never returned. Frequently, new people would show up as others were transferred out.

I believe now middle management personnel were being hired, and yet I heard nothing. Eventually, I demanded a letter specifying approval of a loan before I would begin working with the architect. That is item four.

Our plans were always tentative because I never knew exactly how much money I could borrow. Plans varied from one basement apartment to two apartment units, both with owner apartment. All this time costs for renovations were increasing. We finally requested and accepted a bid proposal from a contractor whose work has been inspected by my architect.

Now, this brings us to January 1989, and I am skimming a lot for brevity.

Mr. DIXON. Let me interrupt you. Have you gotten your loan yet?

Ms. MCCARRON. No.

Mr. DIXON. And you started in 1985?

Ms. MCCARRON. Right.

Mr. DIXON. And what is the last correspondence you have had?

Ms. MCCARRON. OK. You will see the last—I will skip a lot in here.

Since I got that letter I did want you to know this because it is important to me, saying I would get a loan for $112,000, at which point I did hire an architect and we started on plans.

Mr. DIXON. That is August 1987?

Ms. MCCARRON. Yes; about 1987.

We thought we were ready to go. I even obtained promise of a loan which I knew I would need to supplement the Government loan. That is a small loan.

Now, at this point, Mr. Robert Leland, acting general manager of the Bureau of Single Family Finance enters the picture. After several of my friends and I had a conference with a Ms. Carter and Mr. Jackson, I and a friend later met with Mr. Leland.

By this time the office was cleared, I was told, of all previous managing personnel. Everybody had gone by that time, except Mr. Leland, Ms. Carter, and Mr. Jackson, other than secretaries and stenographers.

Mr. Leland's opinion of the project and his refusal of the original loan are in the accompanying letters.

Mr. DIXON. Let me get to the letter dated February 27, 1990, you received from Robert C. Leland, acting general manager, Bureau of Single Family Finance. It says that, "Several weeks ago I received the message from Ms. Carter of my staff that you were giving more consideration to the sale of your property——

Ms. MCCARRON. That is right.

Mr. DIXON [continuing]. "Since your brother-in-law and sister will not be able to contribute financially to renovation and maintenance of the property. In light of this information, we have put on hold any further consideration of your financing request pending clarification of your plans.

That really sounds like some bureaucracy. You applied in 1985 and they write you back 5 years later saying we now understand you are thinking about selling.

Ms. MCCARRON. That is right. That is right. I will summarize it even more.

I told them if I didn't get it, I had no other alternative but to sell it.

Mr. DIXON. Then they said, well, you are thinking about selling so we are going to put your loan request on hold.

Ms. MCCARRON. Then he gives me all this patronizing advice how it wasn't economically feasible, which they could have done 5 years ago, the apartments that I wanted to put in.

See, I am summarizing so you may not get the complete picture.

Then, to put the icing on the cake, when I said, well, since you won't give me the loan for rehabilitation completely, we will have to put the house on the market. I am told that the market is very slow. It might take 2 or more years to sell it. Could we have a loan or something to keep it from further deterioration, and I mentioned things that need to be done: I have a leaky pipe in the basement. I have a roof that needs painting. I have other things.

Then he says, well, since you are going to sell, we can't give you a loan. This is for people who intend to live in their homes.

Mr. DIXON. Well, it is.

Ms. MCCARRON. But after keeping me waiting for 5 years on granting me the loan.

Mr. DIXON. How did they find out that you were thinking about selling? Did you tell them?

Ms. MCCARRON. I told Ms. Carter if I didn't hear from them pretty soon. If I had known 5 years ago how many calls I would make, I would have kept a diary. I must have made 150 to who knows whom.

Mr. DIXON. Have you talked to your city councilperson about this?

Ms. MCCARRON. Oh, yes, John Wilson. He called in at one time. That accelerated it a little bit, but they didn't give me the loan.

Mr. DIXON. Well, maybe you are not entitled to the loan. I am not being rude. Have they ever told you that you are not eligible for the loan?

Ms. MCCARRON. It was a big deal as to whether there had been apartments there at one time. I claimed there were, that we met the code. We were legal before 1958, then we discontinued them and now we would like to put them back, but they think that it should be a regular apartment building with existing apartments in it. They think I just wanted to paint the kitchen door or something like that. That was the big question. The zone permits conversion to apartments.

I think the whole thing was a scam. I think I should have been told in the beginning what the rules and regulations were. If you wade through the material, you will see that it was approve at $112,000. I owe $7,600 now to an architect, and I just think it is a scandal.

Mr. DIXON. What is the gentleman's name?

Ms. McCARRON. Dennison.

Mr. DIXON. He was up here the other day.

Well, we are going to suggest that you get together with Mr. Dennison, and I hope he will contact you within the next week, and then you contact Mr. Miconi. But I'm sure Mr. Dennison or someone he designates will be contacting you.

Ms. McCARRON. Thank you very much.

Mr. DIXON. Now, is there correspondence here that you are holding out for any reason?

Ms. McCARRON. Holding out? What do you mean? No.

Mr. DIXON. You have a nice list of correspondence here. Are there other letters they have sent to you that clear the air a little more than what you are leaving with us?

Ms. McCARRON. No, no; in fact, I had to demand that they put a lot of this stuff in writing. I went down to see them and took a witness with me so they could never deny that we had this conversation. Unbelievable.

Mr. DIXON. Well, I am glad you came today. We are going to see what we can do on this.

Ms. McCARRON. Thank you very much.

Oh, and I asked—oh, is is even more important for the other citizens besides me. I said at the beginning, I think some legislation or you know what, I don't, is needed to prohibit Federal funds appropriated to be diverted to other than the original designation, and annual audit should be maintained.

In my opinion they took the HUD money and hired people, used it for salaries, and raises.

Mr. DIXON. Well, they are giving grants and loans, though. At least they come up here and say they are. I don't think they have used all of the money to hire people.

Ms. McCARRON. I mean prior to now, Mr. Dixon. You can't imagine how many people were sitting around that office shoving paper—Mrs. Len went to several places with me.

Mr. DIXON. Let's try to get your housing problem straightened out one way or another, OK?

Ms. McCARRON. All right.

DISTRICT'S RESPONSE TO LOAN APPLICATION DELAY

Mr. DIXON. If you don't hear back, you just call Mr. Miconi.

Thank you for coming today.

[The information follows:]

MEMORANDUM FROM DAVID S. DENNISON, DIRECTOR, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, GOVERNMENT OF THE DISTRICT OF COLUMBIA

JULY 12, 1990.

To: Wilhemina Marshall, Deputy Director, Legislative Affairs, Office of the Budget.
From: David S. Dennison, Director.
Re: Catherine McCarron/Status Of Single Family Rehab Loan.

This memo is a response to questions which were raised by the testimony of Ms. Catherine McCarron before the recent Congressional hearings on the appropriated budget for the District's Department of Housing and Community Development.

Ms. McCarron is the co-owner of a large turn-of-the-century townhouse located at 1312 21st Street NW., near Dupont Circle. She had applied for a low cost loan from the District's Single Family Residential Rehabilitation Program to renovate her home with three apartment units, which would include two rental units and one for her continued occupancy. Ms. McCarron is a very low income elderly homeowner whose property has a current estimated market value in excess of $500,000. The property, originally purchased by her parents about 70 years ago, has been occupied solely by Ms. McCarron for many years.

By virtue of her very low income, Ms. McCarron was eligible to apply for a rehabilitation loan from the District, which she did in May 1985. The property, although very outmoded, is in good condition. It is neither deteriorated nor in a deteriorating neighborhood, which are factors considered in making loans of public funds. Her property, however, does require substantial upgrading to comply with modern codes, particularly for use as a three dwelling unit property.

It was on the basis of the need to bring the property into compliance with the code for three family occupancy that the Department had processed Ms. McCarron's loan application since May 1985. After at least two property inspections and several revised preliminary scopes of work by our staff and her architect over a period of about two years, a loan of $112,241 was tentatively approved based on a government estimate of the rehabilitation cost. Ms. McCarron's file does not provide a complete explanation for the amount of time taken to reach this point.

During the course of the year following the tentative loan approval, Ms. McCarron sought bid proposals from contractors to perform the work. Bids received by her were in excess of the tentative loan amount approved. Finally, in early 1989 she received a bid within the loan limit. From this point in May 1989, additional time was required in order for Ms. McCarron to clear certain title problems as a precondition for a loan closing.

New management of the Single Family Rehabilitation Loan Program in mid-1989 raised concerns about the proposed scope and cost of the work. These concerns were raised in part due to deficiencies cited by HUD in July 1989 concerning the prior operation of the Single Family Program, particularly relating to inadequately prepared construction scopes of work and specifications. An additional consideration was the overall limited availability of loan funds to assist nearly 200 other applicants who had also been waiting many months for their loans to be processed, especially since Ms. McCarron's rehabilitation work would exceed our standard loan limits by at least $32,000.

We were prepared to continue to work with Ms. McCarron earlier this year when she informed us that she was reconsidering her plans for the property and thought she would put it on the market for sale. Based on that information and other considerations discussed with her in March 1990, we confirmed in writing our decision to deny her the loan. The denial was based in part on considerations discussed with her regarding the financial risk to her and the significant additional expense she would have to incur to complete her architectural plans.

Ms. McCarron has now informed us that she has put the house on the market for sale as-is. However, we advised her by telephone this week that we will consider her request for limited roof repairs needed to prevent deterioration until she sells the property.

In conclusion, although Ms. McCarron's loan application was not handled in a completely satisfactory or timely manner, there were many unusual circumstances which affected her case and contributed to come of the delays. Recent changes in program management have helped correct some of the conditions contributing to the early delays.

I hope that this is responsive to your request. If you have any further questions, please contact Ms. Kaye Savage of my legislative liaison staff on 535-1586.

DUKE ELLINGTON BRIDGE SAFETY BARRIERS; D.C. PUBLIC SCHOOL SYSTEM

STATEMENT OF PETER ESPENSCHIED, ADVISORY NEIGHBORHOOD COMMISSIONER, WARD 3C

Mr. **DIXON**. There is one other gentleman to testify. Are you ready.

Mr. **ESPENSCHIED**. Yes, sir.

Mr. **DIXON**. Please identify yourself for the record.

Mr. **ESPENSCHIED**. Peter Espenschied. I am an advisory neighborhood commissioner in ward 3C. I am also on the steering committee of the Safe Streets Project and of the Coalition Against Drugs, involved in a number of other citywide issues.

I am here to talk to you about two different matters. One concerns the Ellington Bridge. The other concerns the school system.

ELLINGTON BRIDGE SAFETY BARRIERS

Mr. **DIXON**. The Ellington Bridge is the bridge with the barriers? Are you for or against the barriers being up?

Mr. **ESPENSCHIED**. I am against them being up.

Mr. **DIXON**. You want to take them down?

Mr. **ESPENSCHIED**. I want to take them down.

Mr. **DIXON**. Tell us why. You are talking on a subject that I am generally familiar with. You can just give me your point of view.

Mr. **ESPENSCHIED**. I will try to be to the point. There are two separate issues involved here. One is the merits of the matter, the interest, whether it is in the public interest for the bridge to be up or down. The other is procedure as a home rule issue. I want to address the latter.

Congress has seen fit to grant us a limited amount of home rule. We act within that as we are constrained to do. In the matter of the bridge, there has been a very exemplary use, I think it is fair to say, of the procedures that are available to us.

There were extensive professional testimony hearings, town meetings, there was a lengthy deliberation about this matter in each of the ANC's, the neighborhood commissions that border the bridge, and in the neighborhood associations over a period of years.

It has been, I would say, an agonizing appraisal for the community because there have been very compelling issues raised on both sides of the matter. However, when the dust settled, there was something close to unanimity in the community that the barriers should not be there from the point of view of health professionals, from the point of view of the community on a great many scores.

The neighborhood commissions, all three of them involved, and the community associations, all of those involved, all came to the conclusion that the barriers should not be there, should come down. This position led eventually to a decision by the city government, by the Department of Public Works to remove them.

When all of that was done, we were then confronted with a sudden and, I think, arbitrary intervention in the process by Congress. I don't think this expressed the broad will of Congress given the legislative history of the restriction that this occurred. It was something that occurred in a very short term and without a lot of consideration.

I would like to submit to you that it is unfair and abusive of the limited rights that we have for us to be presented with the appearance of self-determination on a basic, very highly visible local issue, and then have it overridden. It is demoralizing.

We have been told that there are certain things we can do and certain things we cannot do. There is a lot more that we can't do than is the case for the citizens of States. But this was a matter which we thought was properly in our local hands.

We were procedurally very conscientious, very careful over a long period of time. Everybody was heard, including all of the people on both sides. Nobody was ignored. But the community, the broad community's decision turned out to reflect a very substantial preponderance on one side of the matter. That was that those barriers shouldn't be there.

I ask you to include in the coming legislation provisions that will change this restriction, restriction that now is in the law that prevents us from spending budgeted, from spending any money, our own federally funded, for the removal of the barriers, and ask that you allow us to do what we have carefully concluded was the right thing to do.

Mr. DIXON. You are absolutely correct on the facts. I believe Mr. Touchstone's testimony is that he does not intend to take down the barriers for a while because of the prohibition in Public Law 101-302. I don't know if he relied on anything other than the language in that public law.

Ms. MARSHALL. I think he was citing the prohibition. He was saying that in response to the language Congress included in the Fiscal Year 1990 Supplemental Appropriation Act.

Mr. DIXON. Right.

Well, you present a classic dilemma.

Mr. ESPENSCHIED. We don't see it as a dilemma. We think the right of the matter is very one sided.

Mr. DIXON. In 1987 there were some findings by the Mayor's agent about the potential exposure of the bridge as it relates to suicides; is that correct?

Mr. ESPENSCHIED. Those statistics have been shown to be methodologically invalid. There has been extensive rebutting testimony on that.

Mr. DIXON. But there was concern and there was a finding on that in 1987. I think Mr. Touchstone indicated that not only suicides, but there seems to be a problem across the country with people throwing projectiles off of bridges that could impact cars and endanger life.

Mr. ESPENSCHIED. That could be true anywhere, and there has been no such problem there, at that location. That has not been a problem. There have been people who have worried that it could happen.

Mr. DIXON. I admit to you that the committee made a judgment based on an appeal that those barriers should stay up until there was at least more discussion or, as we indicated in here, until there was another finding by the Mayor's agent nullifying the 1987 findings.

You see, we would hate to err on the wrong side on something like this. Quite frankly, I don't think an ANC group should get together by a show of hands and decide whether these barriers should come down because of aesthetic reasons.

Mr. **Espenschied**. That is not what happened at all. That would be a very unfair perception of it.

Mr. **Dixon**. What happened? I thought you said the ANC met and the decision followed.

Mr. **Espenschied**. The ANC and the community associations made a judgment about this after a long series of meetings with a lot of professional testimony, psychiatrists, psychologists, social workers. There is in the records available hours of such testimony on many different occasions.

This was an agonizing appraisal. The judgment of the health professionals was the same as the judgment of the lay people in the community.

Mr. **Dixon**. What did they say? The history of this, at least from what I am reading, is that Mayor Barry in 1985 ordered completion of fence construction after three people had jumped in less than 2 weeks. So he had some people come in and say things are better in the community and we don't anticipate anybody jumping from the Ellington Bridge.

Mr. **Espenschied**. No; the problem is not that nobody can or nobody will jump off the bridge. There is a certain steady state in the matter of suicides in which people commit suicide by jumping. Barriers on the bridge have not been shown—in fact, there is pretty convincing evidence to show the other way—that they prevent anybody from committing suicide.

Mr. **Dixon**. It goes on to say that in the 7 years prior to January 1986, 25 persons fell or were pushed to their death from the Ellington Bridge.

Mr. **Espenschied**. I didn't come to argue, prepared to argue the numbers. I don't have them with me. But I have read all the same material. I know that there are rebuttals to the methodology of what you are reading.

For example, people have said, people fell or were pushed. But, in fact, there are no cases of anyone who was pushed. So the introduction of that is entirely capricious. They said fell or were pushed. If 10 people fell and zero people were pushed, then it is true that 10 people fell or were pushed. But there have been no cases whatsoever in which there has been documented anybody being pushed off the bridge.

Mr. **Dixon**. Well, then 25 people jumped off of the bridge.

Mr. **Espenschied**. I am not arguing those numbers. I am saying they need to be looked at in the context of bridges in general, suicides in general, what has happened since the barriers have been up in which the rate of jumping suicides in the District has, in fact, risen in the presence of these barriers.

Mr. **Dixon**. On that bridge?

Mr. **Espenschied**. No; in the area, in the city as a whole. People who are intending to jump from a bridge will find a place to jump. This was the testimony of many psychiatrists and social workers.

No one commits suicide on impulse. Suicide is the result of an ongoing process in an individual. People don't, because there is an opportunity, jump off a bridge, decide to jump off a bridge. That is not the reality of what happens.

In any case, since those barriers have been up not only has the rate of suicides in the city not been reduced, but the rate of jumping suicides has increased slightly.

In addition, there have been a number of cases where special dangers were created by the barrier. There was one spectacular occurrence which I hope has already come to our attention, in which an individual climbed over the barrier and had to be rescued by police and fire personnel at great hazard to themselves. In fact, a fireman was injured in the process.

Mr. Dixon. All right. I will open my mind and think about this issue again.

Mr. Espenschied. I appreciate it.

Mr. Dixon. What is the benefit in removing the barriers?

Mr. Espenschied. There are several. First of all, from the health point of view, one of the problems with the barriers is that it sends a message of noncaring to people who are, in fact, depressed and out on the bridge thinking of jumping that we are not caring about what you do, but we don't want you to do it here. We don't want you to make a mess where we can see it. Do it quietly. Don't bother us. There is a very callous message in physical restraints.

We have advocated that instead, the kind of money that is available, if it is available to help with suicide prevention, should be devoted to things like hot lines. In fact, the community planned for the bridge involved

Mr. Dixon. They have hot lines. As a matter of fact, it was a hot-line organization that contacted us about retaining the barriers.

Mr. Espenschied. I also need to point out that since the barrier has gone up, there has been an extremely intensive, highly professional campaign by the few people in the community who are in favor of the barriers to solicit enforcement. I have no knowledge of the particular thing you are referring to.

Mr. Dixon. I am just saying a hot-line organization contacted me about keeping the barriers up until there was a further hearing by the Mayor's agent. Are you saying that leaving the barriers up sends a bad message to somebody who is planning to commit suicide because it says to them "we don't care about you committing suicide, we just don't want you to do it at this particular place because you will make a mess." Is that a fair statement?

Mr. Espenschied. We don't want to see it.

Mr. Dixon. We don't want to see it.

What is the other?

Mr. Espenschied. Separate from this, when it is established, as we believe it has been, there is not a danger created for potential suicides by the bridge not having the barriers.

There is a tremendous sense of fenced-in-ness for the whole community of people who use the bridge. This place has been an attraction for——

Mr. Dixon. The aesthetic value of going across the bridge and being able to look out.

Mr. Espenschied. Yes; the openness over a beautiful forested area, one of the assets of the District of Columbia. The bridge itself, as I am sure you know, is archetecturally significant.

Mr. **Dixon**. Yes.

Mr. **Espenschied**. The value of it, what the architect did for the community is devalued enormously by presenting a situation where one is like on the inside of a zoo cage.

Mr. **Dixon**. I think there are people of goodwill and well-meaning on both sides of this issue.

Mr. **Espenschied**. I would like to mention the son of Duke Ellington has a letter in the record somewhere saying that in his opinion, that the barriers just are a negation of everything that Duke Ellington stood for. That is his exact words.

This really is a travesty of it as a monument.

Mr. **Dixon**. OK.

Your second issue?

PUBLIC EDUCATION

Mr. **Espenschied**. Yes; on school matters, I, like previous witnesses, am very concerned with the way in which the school budget is handled. I hope to be a little more concrete in suggestions for you than perhaps prior witnesses. I would like to supplement some remarks that were made by them.

Mr. Persons and Ms. Mohammed pointed out a lot more money is spent on schools in ward 3 than on schools elsewhere. They have made that generalization. I think that could be refined somewhat.

Without comment on that, I want to point out that although this is literally true that many of the schools in ward 3 have more money spent on programs of various sorts than are spent in corresponding schools in other wards, this does not mean the Board of Education is spending more money on those things.

A very important element in what is going on that they did not mention is that the parent associations faced with the fact that the schools are so inadequately provided for on a number of scores themselves essentially assess themselves usually by indirect means, by fares and bazaars and by all sorts of things.

I am acquainted with the school that my youngest son attends in this matter, the John Eaton School, which is exemplary enough that, as they said, many parents from elsewhere in the District send their children there. In fact, it is oversubscribed. It turns away students every year, and several of the other schools in the system do, too.

The budget of the Home and School Association is a five figure budget each year. Tens of thousands of dollars are raised from the people who would prefer to send their children to a public school and then pay more to make it better than as many of them could send their children to private schools. As you know, private schools are bound in the area.

Mr. **Dixon**. I thought their criticism was basically the allocation of funds. Maybe they were just using a generalization.

Mr. **Espenschied**. I think that distinction needs to be examined. It is certainly unreasonable that parents should have to raise money to pay for what goes on in the public school.

But, in fact, there are at least two or three people on the staff at the Eaton School who are not funded by the Board of Education, but their salaries come from the Home and School Association.

Those are mostly supplementary. These are language, music, art, the like.

Mr. DIXON. I didn't think anyone was attacking that. Perhaps they were. I thought they were saying that the District's budget, the Board of Education's budget was skewed toward those schools in ward 3. Not any extra effort.

Mr. ESPENSCHIED. The point I want to make is that the board's treatment of the schools is perhaps more equal and unfairly equal all over. That, in fact, it is not putting enough money into what it should be done. That is the kind of teaching that is needed. And the test of that is what parents are having to pay for in those areas where parents can afford to pay for it.

The unfairness is that over much of the District, there are parents who want those things just as much and can't afford to pay for it. That is where the inequality is. The board shouldn't allow a situation to exist where how good a school is depends upon how much money the parents will raise to make it as good as it ought to be.

I would like to make a particular proposal. I think having just said that it was unfair for Congress to intervene at the local level——

Mr. DIXON. I was waiting for the——

ADJUST RATIO OF TEACHERS VERSUS NONTEACHERS

Mr. ESPENSCHIED. That a very fair intervention is to constrain the Board of Education as to the ratio of funds spent on teaching versus nonteaching personnel in the staff. A bloated bureaucracy, as we hear it referred to.

I think a very simple, very healthy thing to do would be to require that the ratio of teaching to nonteaching personnel be increased by 5 percent in the following fiscal year. This would require them to make some hard but constructive choices.

If they have more money, they can hire more teachers. If they don't have enough money, they will have to allot more of the personnel spaces they currently have to teaching and take them away from nonteaching in whatever way they see fit.

This would be a very broad constraint. It doesn't intervene in the microstructure of how they do it.

Mr. DIXON. I think it is a very good, constructive suggestion. But isn't it better directed toward the Board of Education?

Mr. ESPENSCHIED. Complaints of the sort I am making have been directed to the Board of Education for longer than I have had children in the school system, and that is a very long time.

The board seems to be unable to bite the bullet on this matter. They have a situation which I think is, frankly, out of control. They don't seem to know what to do or how to do it, or perhaps they know what to do and they are not politically willing to do it. I cannot say.

But something like this needs to be done.

Mr. DIXON. Would you agree generally with the COPE report?

Mr. ESPENSCHIED. I cannot claim familiarity with it.

Mr. DIXON. So you would support more educational moneys in this year's budget?

Mr. Espenschied. Yes; very much so. I think more is needed. I think, also, the ratio needs to be changed because there is a lot that is wasted.

PARENTAL INPUT IN TEACHER EVALUATIONS

Second, I would like to suggest, and here I am a little more hesitant in suggesting Federal intervention, but I hope that in some way, there can be a mechanism created in which parent complaints about teaching, about teaching performance, are automatically or by rule given great weight in the evaluation of teacher performance.

I have personally had experiences similar to what preceding witnesses have described. Extraordinarily frustrating situations.

An older child of mine who is now in college had a teacher who my youngest child is now 2 years away from having if I don't do something about it, and I do plan to do something about it, a teacher whose incompetence is so notorious in the community, a teacher whose behavior toward children is so adversive that there have been petitions over the years to the principal, and the same principal has been there over this entire period and has expressed just unmitigated frustration at dealing with the situation.

But the teacher cannot be displaced or removed, apparently, on the basis of this kind of complaint, no matter how intense it is, and I cannot imagine it getting any more intense than it has been.

Mr. Dixon. Maybe the principal doesn't agree with your evaluation.

Mr. Espenschied. This could be. The principal has represented what is coming close to a generation of parents. She does agree but cannot do anything about it.

In any case, the principal seems generally to be a good principal. I don't think that is the level at which the blame is. I think there is something systemically wrong when a parade longer than you can keep track of, a parade that has extended over more than 10 years, has failed to result in anything.

This teacher is doing damage to class, after class, after class, after class.

Mr. Dixon. Have you discussed it with your representative on the Board of Education?

Mr. Espenschied. Yes; several times in past years. That representative isn't there any more. I suppose I will bring it up with our new representatives.

Mr. Dixon. What is the nature of the complaint against this teacher?

Mr. Espenschied. The teacher has essentially psychological problems which come out in the treatment of children. I guess a quick example would be a child is asked the answer to a question and doesn't know the answer.

The response of the teacher is, "Well, Betty, would you come up in front of the class and explain to everybody why you don't know the answer to this."

That is to say, embarrassing children, humiliating them, making them feel, you know, lower than the low and so on.

I don't mean that to be a comprehensive example. But for brevity, I give you a quick picture.

PHYSICAL CONDITION OF BANNEKER AND CITYWIDE SCHOOLS

I would like to say one other thing on the education matter. You have heard about the problem of schools, the physical condition of schools. There is a submerged problem in the matter of physical condition of schools that I think also should get attention.

There are in the District of Columbia a number of schools which are step-children because they are not in any single Board of Education member's district. Citywide schools, the special schools of various sorts of—one of them in particular I am very familiar with because one child of mine graduated from it.

That is the Banneker Academic High School. Banneker was set up in a certain sense as an answer to the model schools that most other large cities have, which are for the academically most-gifted, so that children of parents who are very capable are not faced with the choice of either going to a school that doesn't challenge them or to a private school, which is a cruel choice because obviously, many of the parents cannot afford a private school.

And the result has been over the years that there is no choice but to send a child to a school in which the child either gets easy A's sitting back and not being challenged or stops working because school becomes tedious and boring and winds up sometimes even dropping out of school, although very capable originally.

The Banneker School was set up with the best of intentions. It is being treated by the Board of Education, however, as a step-child. The Banneker School, for example, is replete with leaking roofs. It has schoolrooms that cannot be used because the pails have to be there, too, as you have heard in some previous testimony.

It has no science lab, which is a fairly incredible thing for a school that is supposed to be preparing students to go to whatever college they can qualify for.

And the situation of assignment of principal, there has been neglected. The school for several years, for, I think, now going on 3 years, has had no principal. It has had a succession of acting principals and assistant acting principals when the acting principal died suddenly, and so on.

It doesn't get serious attention. I think it is something it ought to be getting. The school ought to be getting at least as much attention as any other high school in the city.

It is important for the whole city. It is most particularly important for the poorest families which students who are capable and have no choice but to go to a public school offers. The public school ought to offer a full range for everybody. That includes for the best students.

Mr. Dixon. The COPE report projects that $150 million is needed for repairs. They are suggesting an additional $20 million a year over a 5-year period plus additional services from other sources. That would suggest that most of the schools, if they are not new, are in disrepair.

Mr. **Espenschied**. There are problems everywhere. I have noticed that with the schools that are in a particular district, the member for that district has some incentive.

They are elected, after all. They hear about it. They have some incentive to push on the administration and get things done.

Mr. **Dixon**. You are saying because that school draws on the general school population, nobody speaks up for it?

Mr. **Espenschied**. Exactly. I don't want to, by implication, say anything negative about the present members. The ward 3 member is still in her first term. She has expressed support for that school.

Mr. **Dixon**. I understand you are not——

Mr. **Espenschied**. The previous member, however, very expressly told me, I think it would be elitist to support a school for gifted children. They can go someplace else. If they don't like our schools, they can move to the suburbs.

Mr. **Dixon**. Who said that? The previous member?

Mr. **Espenschied**. The previous member of the Board of Education, and the at-large members, I think, have the problem that they are simply responsible for too much.

I think even with the best of intentions, they are faced with having everybody tugging on their sleeves.

Mr. **Dixon**. That is the whole concept of the at-large member.

Mr. **Espenschied**. It should be. I think the system isn't working very well.

Mr. **Dixon**. Well, as it relates to the problems in the schools, I am going to bring this to the superintendent's attention.

Did you testify before the board?

Mr. **Espenschied**. No; my home and school association, which I am an active member of, has people who have spent a great deal of energy on doing this. I think the testimony is there. The responses are the problem.

I would like to say just one other thing about Banneker.

Mr. **Dixon**. Banneker?

Mr. **Espenschied**. Yes.

Mr. **Dixon**. Ms. Marshall is a graduate of Banneker.

Mr. **Espenschied**. Hello. We have seen each other.

TEACHER SELECTION FOR BANNEKER

One of the good things about Banneker when it was first set up, not only was there competition for entrance by students, students have to be interviewed and examined in order to go there which is logically expectable, but the teachers also, there was a certain competitive procedure for teachers to teach there, which I think is very healthy.

As I understand it, that has not been maintained. Teachers who are going to teach there have a heavier load than many other teachers. A lot is expected of them.

I think there ought to be maintained a process by which one makes sure that those who are teaching there are people who want very much to be there and be doing that particular job.

It should be an application process somewhat similar as it is for students. This is certainly done in similar schools in other cities. One expects a high level of capability on, especially high level of capability on the part of teachers who are going to teach students with an especially high level of capability.

Mr. DIXON. Ms. Marshall, I believe Dr. Jenkins testified that there is some effort to decentralize some school functions such as ordering supplies and making repairs so the school principals will no longer be required to go through a chain of command? Wasn't he at least talking about some sort of school-based management?

Ms. MARSHALL. Several years ago, the Mayor put money in the budget for pay-as-you-go capital for the schools, financing to repair and rehabilitate school facilities. It was about $8 million to make the kind of repairs the gentleman is talking about, repairs to science labs, roofs, doors windows, et cetera.

This year in response to the COPE report, there is $10 million in the budget for pay-as-you-go financing to make these kinds of repairs.

Mr. DIXON. I wouldn't want this committee to try to single out particular schools for priority. It would seem that from what you are saying—and I think you are a good contrast to the people that were here from ward 1—there isn't anyone happy with the school system.

Mr. ESPENSCHIED. Yes; I am afraid that is so.

Mr. DIXON. Young students are never happy with schools. But, a high dropout rate signifies they are disenchanted to the point where more of them are dropping out. There is no motivation to stay in school.

Parents, both black and white, since you are here, aren't happy with the system.

Mr. ESPENSCHIED. You might——

Mr. DIXON. The teachers aren't happy with the system. The administrators think they are always taking the brunt of the criticism that they are always the problem.

I cannot think of any one group within the educational community that is happy with the schools or even content with the schools.

Mr. ESPENSCHIED. May I point to a ray of hope? Despite all its difficulties at Banneker, which is about 97 percent black, 98 percent of the students from Banneker go on to college. That is certainly a measure of success. It deserves some nurturing.

Something is being done right, but there are serious problems.

Mr. DIXON. Well, to me, that refutes your entire argument. Notwithstanding an acting principal and notwithstanding the leaks in the roof, 98 percent of those students still go on to college.

Mr. ESPENSCHIED. But should we make it that hard?

Mr. DIXON. No; you see, there are young kids here that aren't on any track to go to college or prepared to learn a skill, let alone have exposure to fine arts. They are dropping out of the system entirely. Their parents have no faith in the system, and their children wind up in the criminal justice system or dependent on public welfare services. And what is the first priority?

I am not arguing with you, and I am not suggesting that. I mean you go into some communities, where there is a tight budget, and the parents are mad because they don't have fine arts programs any more.

On another side of town, the parents are saying, "Fine arts, be damned. The kids don't even have any books." So, it is always this balance.

You know, when you say 98 percent of those kids go on to college, then, although the aesthetics of the school are very important, but notwithstanding the lack of aesthetics, they are not making it. But there are other kids here who are not making it. And you and the other parents who are putting their own money and resources into the school should be congratulated.

This black woman here earlier would say she is not fortunate enough to have the resources to put into her school. I am not saying one is right or the other is right.

Mr. **ESPENSCHIED**. I am saying that, too, of course.

Mr. **DIXON**. She isn't fortunate enough to have the resources.

Mr. **ESPENSCHIED**. The unfairness is there should be a system that makes it——

Mr. **DIXON**. Are you from Washington, DC?

Mr. **ESPENSCHIED**. No; I have lived here for almost 30 years.

Mr. **DIXON**. What the gentleman who testified earlier said, and I don't know how he knows about it, but I think most people from Washington who are black who grew up in a segregated community felt very proud of the public education they were exposed to.

My mother——

Ms. **MARSHALL**. My mother did.

Mr. **DIXON**. They felt they got a good, solid basic education. Now nobody black or white, thinks that, the schools are delivering.

So with all of the problems that they have had historically—at least they had a good education.

Now everyone is saying, we don't even have that. I just wanted to vent at the end of the day, too.

Mr. **ESPENSCHIED**. Especially at this time.

I thank you very much.

Mr. **DIXON**. Thank you very much.

I am going to think about what you said as it relates to the barriers on the Ellington Bridge.

Mr. **ESPENSCHIED**. I may bring you some documents.

Mr. **DIXON**. Sure. Give them to Mr. Miconi.

SUBCOMMITTEE RECESS

You are our last public witness for the day. We will have another session with public witnesses probably next week at a time to be set.

We will try to get our notices out at least 2 days in advance or call ahead of time.

With that, the subcommittee is recessed subject to the call of the Chair.

[Whereupon, at 5 p.m., Thursday, June 21, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

WEDNESDAY, JUNE 27, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:20 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Brock Adams (chairman) presiding.

Present: Senator Adams.

DISTRICT OF COLUMBIA

COURT OF APPEALS

STATEMENT OF HON. JUDITH W. ROGERS, CHIEF JUDGE

OPENING REMARKS

Senator ADAMS. The subcommittee will come to order.

Today, we will hear testimony from representatives of the D.C. courts. The courts in the city are at the forefront of the drug war in the Nation's Capital.

The Congress has responded to the need for more judicial resources by including additional funds for the court of appeals and additional judges for the superior court.

We are interested in where the caseload is a year later and what the next steps are. We are concerned when we read, as we did last month, that a judge on the superior court dismisses murder charges against two defendants because the case cannot be brought to trial in a reasonable time.

We are concerned with the resource not only of the trial court, but of the U.S. attorney. While this subcommittee does not have jurisdiction over his budget, the Appropriations Committee does. His resources, or lack of them have a profound impact on the operation of the local courts.

On May 16, I wrote the U.S. attorney for the District of Columbia expressing concern about the dismissal of those charges and whether or not he had adequate resources to manage the caseload. I also informed him that we intended to ask him to testify at today's hearing.

On June 13, I formally wrote to the Justice Department requesting the appearance of the U.S. attorney at this hearing. The U.S. attorney has appeared before this subcommittee many times in the past, most recently on April 17, 1989, to discuss his role in the District's war on drug offenders.

The Justice Department has not responded to my letter, except by phone to say the U.S. attorney will not be here today. I do not understand this response. It is not an adversarial hearing. His testimony would be valuable to the committee in assessing the needs and capabilities of the court system.

However, he is not here and we will proceed with the members of the District courts. I might state parenthetically that I was concerned by the testimony that we had in our first hearing that there was some question, and I would like Judge Ugast to address that if he could during the course of his testimony, that the overwhelming number of murder 1 cases had caused the U.S. attorney in the court to be unable to run a murder 1 calendar and that had led to this article in the paper that there had to be a dismissal of some murder 1 defendants because they were not brought to trial in time.

We, of course, do not know the truth or falsity of these things, but, as you can imagine, they are of some concern, particularly because this committee has tried very hard to be certain that as requests are made by the judges and by the prosecuting officials and by the corrections officials and all of the others that we provide sufficient money and sufficient personnel to carry out the job.

We are pleased to have this morning with us the Honorable Judith Rogers, chief judge at the court of appeals. Welcome. The Honorable Fred Ugast, chief judge of the superior court. Welcome. And we are pleased to welcome for the first time Ulysses Hammond, executive officer of the court system.

I will yield to any other member of the subcommittee. I notice that I am expecting some others, but they are not here yet and I will give them an opportunity to make an opening statement or put it in the record if they wish to do so.

We will start this morning because I have given to the executive officer and to Judge Ugast a question they want to ponder on a little bit. So, Judge Rogers, we would be pleased to start with you first this morning.

OPENING REMARKS OF CHIEF JUDGE JUDY ROGERS

Judge ROGERS. Thank you, Mr. Chairman.

May I say on behalf of the joint committee on behalf of the courts that we are most appreciative of your support and the support of the committee for the resources that are requested by the courts.

Your remarks make clear that you are thoroughly familiar with some of the dilemmas that the courts are facing. Judge Ugast can go into that in more detail and also Mr. Hammond.

May I just point out that certainly the court of appeals is appreciative of the additional resources that were added last year; those five positions to enable us to start a case management program, which is underway.

The effect of that, Mr. Chairman, has been that we have reduced the amount of time that is required for getting the record and the transcript and the case ready to be heard by judges.

The judges last year were more productive than they have ever been and yet, despite all of these good things in terms of the record, the transcript, and the processing of cases through the clerk's office, nevertheless, the amount of delay on appeal increased.

I think it is significant too, Mr. Chairman, in light of your remarks, to understand that the D.C. court of appeals is facing a similar type of crunch in that we not only have the backlog from the prior years of the court's operation, but, for example, 74 percent of the criminal cases which result in convictions, are appealed to the court of appeals. So that drug crunch that is affecting the police, the prosecutors, and the courts at the trial level is also being felt by the court of appeals.

I have a prepared statement, which I would request be made a part of the record, and I have included as attachments to that statement, Mr. Chairman, a chart showing the delay on appeal and another chart showing the pending cases which are in our court, our backlog, new filings, and the cases disposed of.

PREPARED STATEMENT

Senator **Adams**. Without objection, that information will be made part of the record. Your statement will be included in the record as though given. The other materials that you have referred to will be divided between the record and the written report according to their size and convenience.

Judge **Rogers**. Thank you, Mr. Chairman.

[The statement follows:]

Statement of Hon. Judith W. Rogers

Mr. Chairman and members of the Senate Appropriations Committee Subcommittee on Appropriations for the District of Columbia, I appear in support of the fiscal year 1991 budget request of the District of Columbia courts. Chief Judge Fred B. Ugast will address the requirements of the Superior Court and Ulysses B. Hammond, the Executive Officer, will comment on the needs of the court system, specifically the executive office. Accordingly, my remarks will focus on the requirements of the District of Columbia Court of Appeals.

As chair of the Joint Committee, however, I wish to emphasize that in our joint appearances before Congress, Chief Judge Ugast, the executive officer and I have expressed our appreciation for the congressional support of the courts' budget requests. In so doing, we also have emphasized the significance to the community of assuring that the District of Columbia courts have the resources necessary to assure that those who come into our courts, whether voluntarily or involuntarily, will receive timely justice at trial and justice on appeal.

The heavy workloads that the courts must handle continue unabated. With the forthcoming increase of 1,000 police officers, and additional assistant U.S. attorneys, those workloads can only increase if present circumstances persist. The authorization of eight additional judgeships, and supporting staff, for the trial court, is an important first step in assisting the courts. Still unaddressed, after four independent studies documenting the need, is the problem of appellate delay and congestion. The need for an intermediate appellate court, first documented over a decade ago, becomes undeniable as the size of the trial court is expanded for the second time since the District of Columbia Court Reform Act of 1971. Until appropriate structural change for the appellate court is approved by Congress, and it is to be hoped that this will be done by the 101st Congress, it is obviously important that this subcommittee, the full committee and the Congress support the budget requests of the courts for fiscal year 1991 and fiscal year 1990.

DISTRICT OF COLUMBIA COURT OF APPEALS

The Court of Appeals has continued its efforts to address a caseload size that the court was never designed to handle. A case management plan has begun to take shape, with the three staff attorney positions approved in the fiscal year 1990 budget, and should improve the early screening of cases. The senior judges continue to hear appeals. The active judges—although lacking a full complement of judges for almost one year—continue to be productive. In 1989, the time from submission to disposition—i.e., the time an appeal is pending before a judge after oral argument or submission without argument—was down to 69 days, as compared to 110 days in 1982, while the number of dispositions was at an all time high of 912 appeals (306 by published opinion and 606 by memorandum of opinion and judgment). Various other administrative improvements have helped to reduce the time required for record preparation. Nevertheless, despite all of these judicial and managerial efforts, the average time on appeal reached an all-time high of 680 days, or 22 months, from initiation to disposition in 1989.

Appeals continue to be filed in high numbers: 1,534 cases in 1989. Furthermore, as the number of trial judges and hearing commissioners has increased without a concurrent restructuring of the appellate court, the pressure of the case and motions workload of the Court of Appeals has increased; in 1989 5,812 procedural motions were filed and 1,420 substantive motions were filed, the latter often presenting issues as difficult as the appeal itself. Multiple extensions of time are required by the appellate staffs of institutional litigants—the corporation counsel, the public defender service, and the U.S. attorney—to keep up with these numbers. Similarly, the overburdened members of the bar, who are appointed to represent indigent criminal defendants under the Criminal Justice Act, require numerous extensions of time. The court cannot ignore its obligations to fulfill its jurisprudential role, and when it does, all judges must devote their time and attention to a single case, thereby further delaying dispositions on all other cases. The steady existence of judicial vacancies has left the court shorthanded during almost all of the court's history.

The fiscal year 1991 budget includes funding for the case management plan using central legal staff and for law clerk support for the additional senior judges. The court also is seeking funds to modernize the court's decade-old computer system, in order to keep pace with the needs of the court, and to expand provision of computer-aided legal research services to speed decision preparation. The court also requires staff assistance to respond to cases in which prisoners and indigents represent themselves.

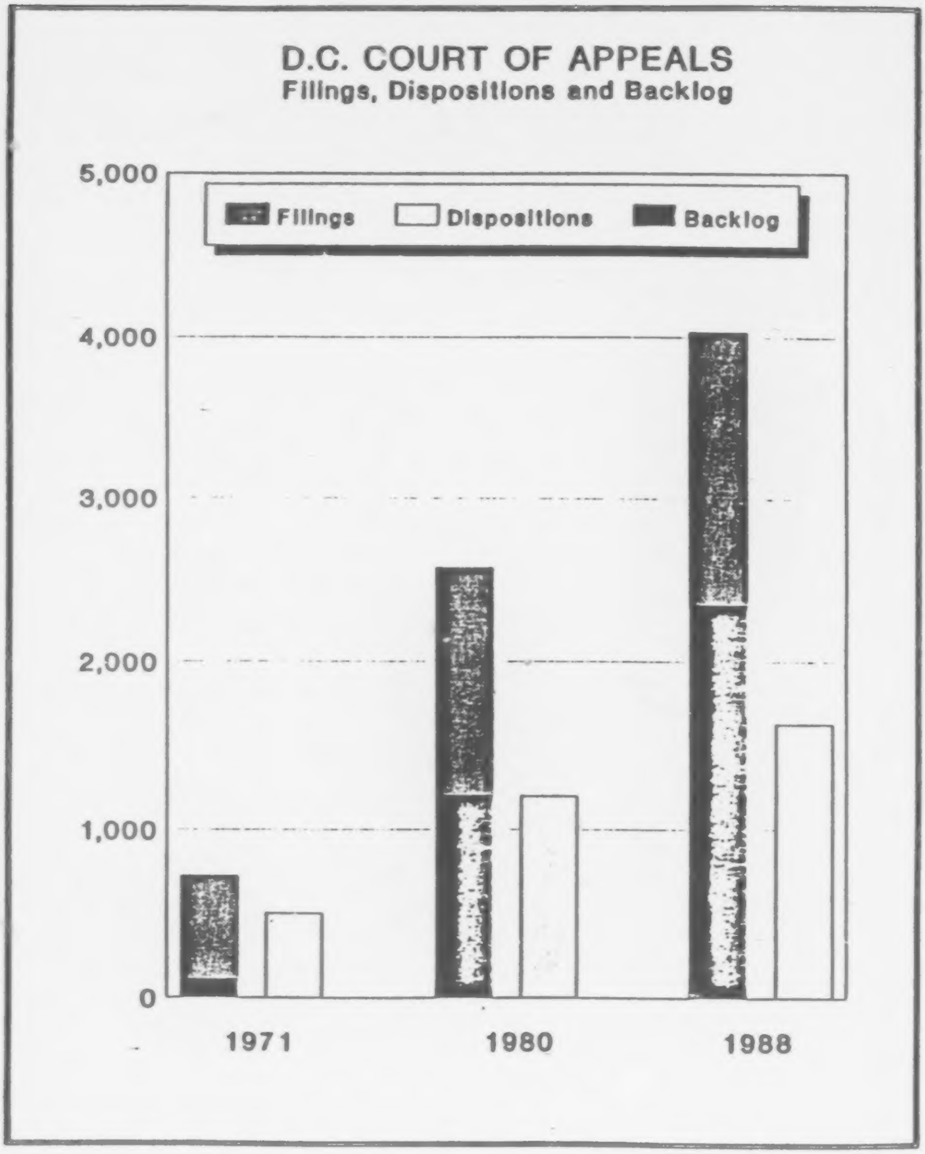
Accordingly, in fiscal year 1991 the Court of Appeals is requesting an appropriation of $5,961,000. This is an increase of $965,000 and eight positions over the fiscal year 1990 budget of $4,996,000. The increase consists of $169,000 in mandated judicial and nonjudicial pay increases, $65,000 in increased fringe benefit expenses, $63,000 for salary annualization of new positions, $174,000 for the staff attorney, law clerks, deputy clerk, and systems analyst positions, $65,000 for increased cost of computerized legal research, $159,000 for needed equipment, maintenance and supplies, and $200,000 for modernization of the computer system.

This is a streamlined request designed to maximize techniques of case management and the use of modernized equipment. It represents an effort to respond to the increasing number of matters coming to the Court of Appeals and to make the most efficient use of judge and staff time. The fundamental problems of delay and congestion on appeal will persist, however, due to the continuing pressure on the court's caseload, the lack of judge time for en banc review, and the increase in the average time it takes to consider an appellate case. Over the years, notwithstanding the management improvements and assistance of senior judges, the backlog has continuously risen as the court is unable to dispose of more cases than are filed annually; in only three years has the court been able to dispose of more cases than were filed in that year. As the Bar Association of the District of Columbia pointed out in testimony before Congress, based on the court's success in 1987 in disposing of more cases than were filed in 1987, it would take 14 years for the court to dispose of one-half of its backlog. Hence, absent creation of an intermediate appellate court, the basic problems of delay and congestion on appeal will persist.

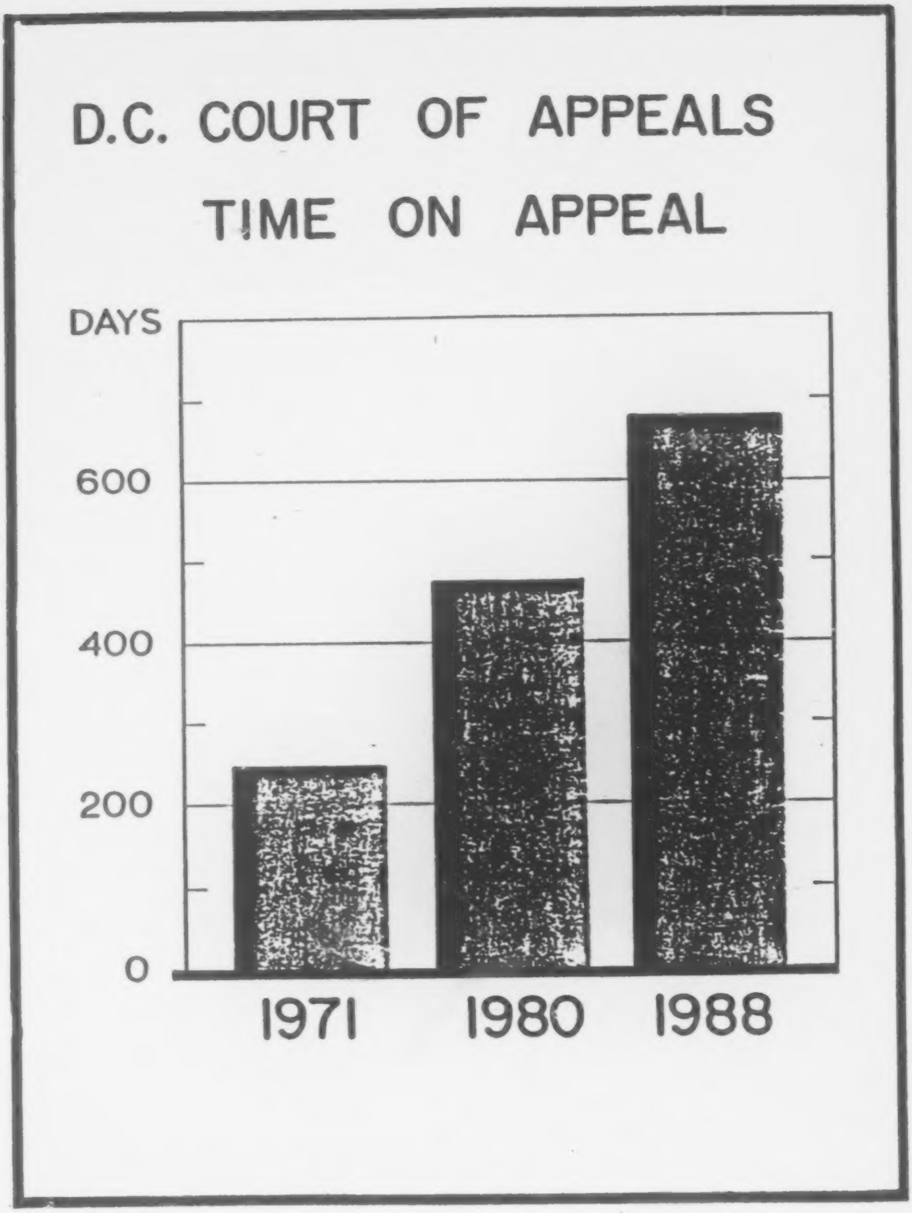
The fiscal year 1990 budget request of the Court of Appeals is eminently reasonable in light of the increased demands that the District of Columbia and its citizens, as well as other users, place on the District of Columbia Court of Appeals and the court's responsibility to respond, as best it can, to these demands in a manner consistent with speedy and fair administration of justice in the District of Columbia.

The District of Columbia government is recommending an increase of only $149,000 for fiscal year 1991, which is about one-half of our needs for mandatory payroll items of which I spoke earlier. This is an action that the Court of Appeals can ill afford. Accordingly, on behalf of the Court of Appeals, I urge your support for the full fiscal year 1991 request.

Thank you for your consideration.



D.C. COURT OF APPEALS
Filings, Dispositions and Backlog



D.C. COURT OF APPEALS
TIME ON APPEAL

FISCAL YEAR 1991 BUDGET REQUEST OF THE COURT OF APPEALS

Judge ROGERS. Briefly, because I know you want to get on to the questions you addressed, the court of appeals is requesting an increase this year of $965,000. That is about $846,000 over what was recommended by the D.C. government.

It would provide for the court to further the case management plan to expedite the processing of cases. There is a major amount of money for updating our computer system. It was upgraded 5 years ago, purchased 10 years ago, and the idea is to improve the efficiency in our docketing system and enabling the court to provide speedier responses to those matters which are pending in the clerk's office.

In addition, it is to upgrade some of the word processing systems, and provide some money for legal research. We have some new staff positions to respond to increased filings and the pressures of not only the pro se work, but of the motions work in our court.

I would be happy to respond to any questions, but I think that summarizes the court of appeals' request.

CASE MANAGEMENT PLAN FOR HANDLING CASES

Senator ADAMS. Judge Rogers, when you establish your case management plan, which is for early screening of cases, can you quantify what your expectations are for reducing the number of days on appeal, in other words, the backlog time?

Judge ROGERS. Mr. Chairman, what that plan enables us to do is to get the delay out of the clerk's office and into the judges' chambers. It is simply moving the cases along faster, but, nevertheless, the judge has to decide the cases.

What I do anticipate next year is a one-time decrease in the delay on appeal because we will go to direct printing of opinions in September.

Senator ADAMS. I am sorry. I did not hear that. To a direct what of opinions?

Judge ROGERS. Direct printing.

Senator ADAMS. I see.

Judge ROGERS. In other words, now we get a slipsheet and there is about a 23-day delay between the time the opinion is ready to be released and it actually is released in slipsheet form.

A number of courts around the country as well as the D.C. circuit here use direct printing. So we expect that we would see that kind of drop next year, but that is a one-time drop. The backlog remains. For instance, last year we had over 8,000 motions, about 1,400 of them being substantive motions; many of those substantive motions are like another case. Those motions do not show up on the chart that I have attached to my statement.

I think it is clear in the studies that we have discussed before that the court has adopted every type of mechanism that is available to it to expedite cases and to decide more cases.

The case management plan will relieve judges of some administrative responsibilities, but still the judge has to decide.

Five senior judges are able to provide some assistance, but despite their assistance, the time on appeal continues to increase.

As I mentioned, Mr. Chairman, that is despite increased productivity by the judges, that is deciding more cases.

Senator ADAMS. This committee does not have jurisdiction over the intermediate court bill, so that we are unable to operate in that field for you. I know that that has been helpful in some States.

HANDLING OF HABEAS CORPUS CASES

Let me ask you this question, is your backlog being significantly impacted by the fact that you are receiving a number of appeals from the drug related and particularly the murder 1 cases?

In other words, do you have to run what we use to call the 2254 cases or the habeas corpus cases as full motion hearings at the court of appeal level?

Judge ROGERS. No; what we have done, Mr. Chairman, is we have amended our rules and by decision, required that you file a collateral attack in the trial court and the direct appeal and collateral appeal are considered at the same time. We have also limited the amount of the time within which to file a collateral attack where the issue is ineffective assistance of counsel.

Senator ADAMS. So your collateral attacks are included within that.

Now tell me what your effect is—well, just describe to me your present situation with regard to collateral attacks, habeas corpus, and so on, going into the Federal level and coming back. Do they come back directly to the trial level or do they come back to the appellate level, or do they affect your caseload?

Judge ROGERS. I am sorry. I am afraid I did not follow.

Senator ADAMS. Well, a prisoner files a habeas corpus action or its equivalent, the old 2254, in the Federal court alleging that the trial was not proper and, therefore, it is a collateral attack in another court. I am just asking if those come back and are causing an increase in your caseload. I am going to get to Judge Ugast in a minute as to whether those are coming in through you or going back to the trial level.

Judge ROGERS. Under a supreme court decision, *Swain* v. *Pressley*, it is more difficult in this jurisdiction for a local prisoner to file a habeas corpus in the Federal court than it would be in the State of Washington.

Most of the collateral attacks are filed initially in the trial court as what we call 23 110 motions, which are the equivalent of the 2254 and 2255 motions in the Federal courts.

I cannot say that we have a caseload associated with denials in the Federal courts that then come back to the trial courts.

As you know, the supreme court has been limiting more and more the opportunity for State prisoners to get into Federal courts in the habeas corpus area.

Senator ADAMS. That is what I wanted to determine. That is not your area of problem.

PROBLEMS OF THE COURT OF APPEALS

Judge ROGERS. That is not the problem.

Senator ADAMS. Tell me what is your area of problem, as you would most succinctly define it?

Judge **Rogers**. The District of Columbia has both State, county, and municipal jurisdiction. It has a single court system: a trial court of general trial jurisdiction and a single appellate court.

The volume of work coming into the trial court has increased dramatically. The trial court, starting with 36 judges in 1970 with the D.C. Court Reform Act, and now will, shortly, have 59 judges and 15 hearing commissioners.

In addition, with home rule, there have been a number of statutes passed giving rights and entitlements to D.C. residents and those who do business in the District of Columbia.

And, third, the statutes passed by the Congress, which apply not only to the States, but to the District of Columbia—for example, Social Security Act amendments, Clean Air, Clean Water Acts—have had an impact on the caseload in the District of Columbia.

All this is over and above what we would describe as the normal caseload associated with the prosecution of crime and normal tort and negligence actions.

The civil caseload is heavy and the cases that come up to the court of appeals are complex.

We have systems in place to dispose of the simple or the frivolous cases very early through a number of procedures in the clerk's office, and by procedural motion.

We have weeded out what can be weeded out. There are two summary calendars to dispose of the cases which are very simple, usually without oral argument. We have a motions practice. Nevertheless, there is a large volume of cases coming into the court of appeals.

First degree murder cases and the efforts of the U.S. attorney and the local government to respond to the concerns about public safety have created some other problems for the court of appeals in the sense that when you expand preventive detention, when you impose greater restrictions of release pending trial, those result in motions in the court of appeals to review trial court determinations. Many involve expedited appeals.

All of these things come together. The important thing to understand is that when Chief Judge Ugast describes the volume at the trial court level, while there is not a 100-percent correlation, nevertheless, when you consider that in 1988 74.2 percent of the criminal cases were appealed, above and beyond the civil appeals, despite the alternate dispute resolution and mediation programs of the trial court, a large number of cases are appealed to the court of appeals.

PERCENTAGE OF TRIAL CASES APPEALED

Senator **Adams**. I have not been in the prosecuting business for a long, long time, but is that percentage, 75 percent felony appeal rate something that is general throughout the country, or is that a very high rate, or is it a low rate?

Judge **Rogers**. I would be happy to provide that answer for the record. What I can tell you is that the rate at which felony cases go to trial in the District of Columbia is higher than in many jurisdictions.

Senator **Adams**. Would you supply for the record whether or not a 75-percent appeal rate is a high rate compared to others? And, if you can, give me a break down.

You see, one of the things that we are faced with in the Appropriations Committee is, as everybody knows, a very severe budget crunch, which has prevented us from doing things with the Federal payment.

We have been able to assist particular departments and particularly in the law enforcement area so far as the drug problem is concerned because it is simply easily identifiable and the drug problem leads, of course, to an enormous increase in the general felony area.

All I am trying to determine is, to be sure the record is complete, what you are having flow into the court of appeals as a result of what is going on in the District now.

And I will ask, of course, Judge Ugast this and we will go through it. But I would appreciate your supplying that for the record.

That seems to me to be a very high appeal rate unless you have a very severe set of cases coming up.

Judge **Rogers**. Well, understand, you know, the District has——

Senator **Adams**. I mean you can have a jurisdiction where you have a large felony calendar, but most of the cases are not hotly contested and a great many of them go on plea and so on and, therefore, you do not have an appeal calendar that is as heavy. That just seems to me to be very heavy—but that is from a long time back and that is what I am asking you to supply if that is not a very heavy appeal rate.

Judge **Rogers**. Mr. Chairman, understand as well, the District has high sentences by comparison with other jurisdictions and, in addition, there has been a longstanding commitment to the provision of counsel in criminal cases for people who cannot afford counsel.

So in addition to the D.C. public defender service, which is available to handle these more serious cases, and those are going to be the murder and other major felony cases, appointed counsel is available.

From the point of the view of the defendant facing a long term of incarceration, there is, to put it bluntly, very little to lose by filing an appeal.

Senator **Adams**. The use of the public defender, and I know there is an active one here because I was part of its being created, has not, therefore, reduced the number of appeals. I am not talking about murder 1 now, but other felony cases.

Judge **Rogers**. Well, they can speak best for themselves, but they have testified in the past that their goal is not to perpetuate appeals, rather they do try to convince their clients when they do not think there is anything meritorious to the appeal to forego an appeal.

From the court of appeals' perspective, the Public Defender Service is not filing frivolous appeals.

Senator **Adams**. Thank you very much, Judge Rogers.

Judge **Rogers**. Thank you, Mr. Chairman.

[The information follows:]

LETTER FROM JUDITH W. ROGERS

JULY 9, 1990.

Hon. BROCK ADAMS,
Chairman, Subcommittee on Appropriations for the District of Columbia, Committee on Appropriations, U.S. Senate, Room S-205, U.S. Capitol, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your question at the June 27, 1990, hearing on the fiscal year 1991 budget requests of the District of Columbia Courts concerning the rate of appeal from criminal convictions.

The National Center for State Courts has provided the attached information. Note that the rate of appeal from all criminal convictions in the District of Columbia appears higher than in other jurisdictions, also without an intermediate appellate court, on which the National Center has provided information. In contrast, the rate here is lower than in jurisdictions where determinate sentencing and broad appealability of sentencing apparently stimulate larger numbers of appeals, as in California.

Sincerely,

JUDITH W. ROGERS.

MANDATORY CRIMINAL FILINGS, 1988

State	Intermediate appellate court	Court of last resort	Total appeals	Convictions after trial	Appeals as a percent of convictions after trial
California	5,656	46	5,702	5,967	95.6
Maine	([1])	200	200	483	41.4
Montana	([1])	161	161	296	54.4
South Carolina		323	323	1,008	32.0
Texas	4,377	617	4,994	4,151	120.0
Vermont	([1])	191	191	209	91.4
Washington	1,281	14	1,295	1,198	108.1

[1] No intermediate appellate court has been established.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

STATEMENT OF HON. FRED B. UGAST, CHIEF JUDGE

PREPARED STATEMENT

Senator ADAMS. Judge Ugast, it is a pleasure to have you here again. We would be pleased to hear your testimony.

Judge UGAST. Thank you, Mr. Chairman.

It is a pleasure to be here to appear before you today to testify on behalf of the budget request of the superior court for fiscal year 1991.

I, too, would ask that our formal statement be made a part of the record.

Senator ADAMS. Without objection, your entire statement will be made a part of the record as though given.

[The statement follows:]

STATEMENT OF FRED B. UGAST

Mr. Chairman and members of the District of Columbia Subcommittee of the Senate Appropriations Committee, it is a privilege to appear before you today to testify on behalf of the budget request of the Superior Court for fiscal year 1991. I would like to speak just to the most critical parts of that budget request.

The Superior Court is requesting a total operating budget of $71,459,000 which reflects our total requested net increase of $6,520,000 and 67 additional positions. At the outset, let me state that a substantial portion of the total requested increase ($2,432,000) is for either items over which the Court has no control and must pay such as, mandatory non-judicial pay increases, within grades, annualization of new employees salary authorization for fiscal 1990, employee medicare benefit contributions and pay adjustment for our judges, and for items entitled "Other Than Personal Services" ($2,724,000). Included in that item is $424,000 needed to adequately fund payments to attorneys appointed under the Counsel for Child Abuse and Neglect program, $250,000 for expanded contractual services to Youths under Court Supervision, $150,000 for similar services to adults, $300,000 for a telecommunication linkage between the Court, D.C. Jail and Lorton complexes, so that our probation officers may conduct much more efficient time-saving interviews with probationers detained prior to sentencing, $480,000 for maintaining and expanding the Court's data processing capabilities, both centrally and court-wide, in order to keep pace with ever increasing demand for such services, $250,000 for modular office systems to accommodate the expanding Superior Court work force in existing space and the remaining $870,000 represents increases in normal operating expenses such as postage, office supplies, printing and reproduction, law books, telephone and the like which are crucial to the efficient day-to-day operations of the Superior Court.

The new positions we are requesting (75-$1,706,000) are needed as part of our effort to cope with the caseload demands in each of our Court divisions and to bolster work force in light of the initiatives undertaken to combat the drug-related cases. More than half of these new positions (39) are for the Social Services Division (26) and Criminal (8) and Family (5) Divisions.

The City does not support our request for new positions and is recommending an increase of only $1,213,000 for fiscal year 1991, which is about half of our needs for mandatory payroll items to which I spoke earlier.

Through an unfortunate oversight by the Council of the District of Columbia an intra-court transfer of eight (8) Court Reporter positions and $342,000 from the Superior Court budget to the court system budget has not been recommended. I might add that these Court Reporter positions were authorized by Congress last year as part of the supporting staff for the eight new judges authorized as a result of the drug emergency and should be organizationally assigned to the Court System budget.

At this time, the Court is operating with 47 judges, four under our previously authorized strength; one judge who has been ill for over a year retired on disability within the past three months, one has died in March, one has retired, another has been confirmed as a judge of the Court of Appeals. One-half of the judges are assigned to the Criminal Division as are five Hearing Commissioners. Congress, in the last session, provided eight additional judgeships and the President has submitted nominations to fill those judgeships, with confirmation hearings anticipated in early summer.

There were 9,537 indictments filed in 1989, which has tripled since 1978 when there were 3,100. Sixty-one percent represent drug charges. Sixty-two percent of felonies filed in the first five months of this year represent drug charges.

There are pending 3,644 felony indictments as of May 31.

13,550 misdemeanors were filed in 1989 and 2,024 are pending, twenty-seven percent are drug charges.

Our adult drug tests reflect that in 1988, 73 percent of the arrestees tested positive, 64 percent for cocaine. In 1989, 67 percent tested positive, 62 percent for cocaine.

In December, 1989, 56.7 percent tested positive which was the lowest since April, 1985 and 53.9 percent for cocaine. In May of this year 56 percent tested positive. 54 percent tested positive for cocaine, up three percent from April. Four percent tested positive for PCP, the lowest ever since testing began.

These staff needs are vividly explained by a review of the individual judge calendars of the Superior Court which reveal that there has been a steady climb in the number of cases on each court calendar.

Felony I and Accelerated Felony Individual Judge Calendars

The Felony I and accelerated felony calendars have reached critical levels in terms of being able to reach these cases within acceptable or statutory mandated (accelerated felony) time frames. Even after adding a third Felony I calendar (handling murders, rapes, etc.), the number of pending cases has skyrocketed to over 84 on each calendar (from less than 40 in 1986, a 50 percent increase). The two (2) accelerated felony calendars (handling chronic offenders, preventive cases, etc.) Have, in 1989 reached a level of 39 pending cases which is up twenty-seven percent. The Felony I calendars, however, overloaded with jury trial demand homicide and rape cases require the immediate addition of at least one more individual judge calendar (a judge and supporting staff to bring the program into more manageable status).

Felony II Individual Judge Calendars

The Court's twelve (12) Felony II calendars, similarly, have jumped from an average of 150-200 cases per calendar, before Operation Clean Sweep, to a 278 cases per calendar level at May 31, 1990. There has been a huge increase in felony indictments over the years directly attributable to the drug problem. Assuming that a level of 200 cases per calendar is manageable as soon as the eight new judges are appointed, the Court will add three (3) to four (4) individual judge calendars to the Felony II program to accommodate today's case levels.

Misdemeanor Individual Judge Calendars

The Court was able to maintain a barely manageable 250-300 cases per misdemeanor calendar level for over a year. At December 31, 1989, however, the average calendar has risen to 322 cases leading the Court to the conclusion that it will soon have to add an eighth, and possibly a ninth, calendar to the misdemeanor program.

Family Division

The Family Division has been able to operate at a fairly "balanced level" only because major senior judge resources have been allocated there. This makes it possible for two of the juvenile calendars to be continuously manned by utilizing the combined efforts of several senior judges to cover various Family Division Calendars. There is a need, however, for additional staff and judicial resources to accommodate the existing juvenile caseload as well as the large increases anticipated as a result of the addition of a substantial number of police officers.

It is important to also note that there has been a dramatic increase in the number of child neglect and abuse cases, generally attributed to drug abuse problems in the household. New filings increased from 609 in 1988 to 917 in 1989. Neglect cases pending trial and/or disposition:

1/1/88 - 355
1/1/89 - 430
1/1/90 - 538

This unfortunate phenomena has overloaded our child neglect and abuse calendars and requires the addition of one neglect and abuse calendar at the earliest possible moment.

There were 5,880 juvenile and neglect filings in 1989, an increase from 4,000 in 1982. Some 52 persons were charged with homicides and the neglect petitions have increased substantially. Drug tests were down in December, 18 percent tested positive, 13 percent for cocaine. In April, 1990 - 20 percent tested positive, 15 percent for cocaine. This seems to be going up again.

We have overhauled and expanded our child support operation, and with the cooperation of the Department of Human Services, have turned around the collections in our City.

We have just recently established a hotline where parties can obtain information about the status of their support payments.

We also established, a year ago, a laboratory which permits us to take blood samples for paternity testing in the Courthouse.

Civil Calendars

In order to accommodate the heavy case levels in the Criminal and Family Divisions, the Court has reduced the number of judges sitting on civil trials to the point where the first trial setting of civil cases is 22-24 months from the case coming to issue.

In April, 1989, I appointed a Task Force on Civil Case Delay to study causes and possible internal solutions to the delay problems of the Civil calendar. The Task Force's recommendations have resulted in procedural changes which require earlier Court intervention in the processing of Civil cases and the pilot testing of two individual judge Civil calendars. It is important to note, however, that in order to achieve a barely acceptable one years first trial setting, the Court will have to provide four (4) additional Civil judges to the Civil Division.

In considering the needs of the Civil Division, the Court must also take note of the reported 10,000 police property seizure cases which may be filed as Civil action cases in the Superior Court. In order for the District to benefit from the seizure of assets of drug dealers, these cases (reportedly currently involving just under $4 million dollars worth of cars, houses and money) must be initiated by a filing in the Superior Court by the Office of the Corporation Counsel, followed by a right to a full hearing.

We also anticipate increased activity in the Landlord and Tenant Branch as a result of recently enacted legislation.

Probation Services

An intensive adult drug counseling program is proposed as a component of the Division's intermediate sanction effort. Recent OCJP&A reports indicate that 74 percent of all adult arrestees tested positive for one or more illegal substances. The violence and self-destructive behavior associated with drug addiction is a major concern in adult supervision. The majority of adult probationers suffering from addiction problems lack health insurance, and must turn to the public sector for treatment. Consequently, the clients are referred to clinics that are both overcrowded and understaffed. Many of these public facilities also lack certified personnel that have been specifically trained in drug counseling. It is our intention to provide an intensive drug counseling program for the probationer who both desires help in timely fashion, and is unable to utilize the limited drug resources that are available elsewhere in the District of Columbia.

There are a substantial number of juveniles on probation who require services beyond the capabilities of regular probation. The Division intends to focus on the needs of high risk juvenile offenders through the creation of specialized caseloads in the three regional field units. A significant change in the criminal sophistication of the typical juvenile offender has taken place in recent years. Juvenile offenders have become essential cogs in the illegal drug distribution network which plagues this City. Two specialist probation officers to supervise drug involved offenders is proposed in each field unit; they will work scheduled times and days when maximum productivity would be obtained (late evenings, weekends, etc.).

The child abuse team caseload has steadily increased during 1989. The workunits averaged close to 125 per officer which indicates a workload 25 percent over capacity. The cases referred to this team are extremely difficult, complex, and emotionally demanding. The increased numbers of adult female crack and cocaine addicts has resulted in a dramatic increase in child abuse complaints. It is essential to reduce caseloads to more effectively manage this growing problem.

Other programs we are considering:

Expanded IPS and HITS program
Day care treatment centers
Probation residential center (in lieu of incarceration)

We have recently opened a new probation field office in Anacostia. The Anacostia field unit, a new adult supervision program, began operating on May 24, 1990, at 1418 Good Hope Road, S.E. This site has eighteen professional staff, and serves the needs of adult probationers and their families by offering a cluster of community corrections services in addition to traditional probation supervision pursuits. Also, we have a Southeast Probation Field Unit located at 2200 Martin Luther King Avenue, S.E. This field unit is staffed by nine professional employees, and provides probation services to juvenile offenders and their families.

Intermediate Sanctions Project

In an effort to develop intermediate sanctions, we have set up a team with representatives from Parole, Corrections and the City Council.

We are also considering electronic monitoring for revoked probationers.

Impact of Additional Police Officers

Last year in my testimony before Congress, I documented the Court's need for 15 judges based on the expectation of a 700 to 1,000 additional police officers. Hopefully, the Congress in the second session will address the additional 7 trial judges needed.

The time has also come when the Court System must address the serious need for additional space.

Closing Statement

Before closing, I would like to request that language similar to that suggested in a memorandum from the former Executive Officer to the City's Budget Director dated January 19, 1990, allowing claims submitted for services rendered prior to fiscal year 1991 under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 to be paid from fiscal year 1991 appropriations be included as part of the approved budget package for fiscal yea~~r 1991~~. A copy of this memorandum is submitted for the record.

In closing, Mr. Chairman, I wish to thank you and other members of the Committee for the kind consideration you have shown the Superior Court in the past and hope you will look favorably upon the Court's request for this year.

I would be pleased to answer any questions the Committee might have.

MEMORANDUM FROM LARRY P. POLANSKY, EXECUTIVE OFFICER, D.C. COURT

January 19, 1990

MEMORANDUM

TO: Richard C. Siegel, Director
Office of the Budget

FROM: Larry P. Polansky, Executive Officer

SUBJECT: Proposed Appropriation Act Language

Beginning in fiscal year 1991, in order to be able to process all claims submitted for services rendered in the Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 program, the following language is requested to be included in the District of Columbia Appropriations Act for 1991:

> "Provided further, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective September 30, 1989 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1991, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989:"

The nature and the timing of claim submissions for this program are very much like those experienced in the Criminal Justice Act and Neglect Representation Equity Act of 1984 programs. Over the years, these two programs have had appropriation act language which allows current year funding to pay for expenses incurred since the inception of the program.

It is now necessary to recommend the inclusion of the proposed language in the 1991 appropriation act for the Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986 program.

Larry Polansky
Larry P. Polansky
Executive Officer

OPENING REMARKS OF JUDGE UGAST

Judge Ugast. I will speak just to some of the more critical parts that probably will address some of the concerns you have raised and then you may have some additional questions.

I, too, want to start by expressing our appreciation for the consideration that you personally and this committee has given to the needs of the superior court in this difficult period.

STATUS OF APPOINTMENT OF EIGHT NEW JUDGES

Senator Adams. I wanted to be certain that you had received your judges and that they were on line. You see, this committee does not have jurisdiction over that, but I have gone to those chairmen and they swear to me that they have moved those judges through and that they are going to appear and I do not want to question their word or anything, but I want to ask you whether or not the bodies are physically appearing in your courts.

Judge UGAST. I will address that in just a moment and your help by persuasion or whatever would be appreciated.

Senator ADAMS. Have they moved out of those committees and——

Judge UGAST. Well, we are operating—let me just skip right over to that.

Senator ADAMS. Yes; skip right over and answer that for me because I have got to do something about that.

Judge UGAST. The problem is it has gotten worse before it is going to get better. We are operating with 47 judges, 4 under our authorized strength before Congress acted. One judge has been ill for over a year and he finally retired a few months ago, 4 months ago. Another judge died in March. Another judge retired in March. Another judge has been confirmed for the court of appeals.

So we are actually operating four under our authorized strength right now. Now the eight judges that were authorized, they are now pending before the Senate Governmental Operations Committee. The hearings—I checked yesterday. They thought they were going to have hearings last week. They had been canceled. No new date has been set.

So unfortunately——

Senator ADAMS. Well, I wrote to him on May 16 and received—I thought they had moved out. They are still in front of the Senate committee?

Judge UGAST. Yes, sir; and the hearing was canceled. So it looks like now the earliest date will be after the recess, sometime after July 10.

Senator ADAMS. Well, I will send another letter and I will make a personal comment because I do not know of any opposition to this that is happening and if there is I want to know about it, but I just feel very frustrated that those have not arrived.

Judge UGAST. And, of course, that only gives me a net increase of four when I get eight of those.

Senator ADAMS. What do I do about the other four?

Judge UGAST. Well, there are two more nominations that have gone to the Senate in the last few weeks. I would hope that they too might, if the hearings are not going to happen until July, also be included in the hearing. That will give 10 of the vacant judgeships—8 of the new judgeships. It would be——

Senator ADAMS. What about the other two——

Judge UGAST. Two more—there is one pending——

Senator ADAMS. One is ill.

Judge UGAST. There is one pending at the White House yet as for another name and then the fourth one has not gone out of the commission yet because Judge Wagner does not leave our court officially until the middle of next month.

Senator ADAMS. All right. I will include in my letter then the attempt to move the additional judges' nominations out and then watch for them on the floor.

STATUS OF OTHER POSITIONS AUTHORIZED IN FISCAL YEAR 1990 BUDGET

Judge Ugast. With respect to the staff that was authorized, we have gone ahead and started to hire since January. Of course, as you know, the Congress did not approve the act until late in the year and we have gone ahead and started hiring staff that we were authorized, other than the staff for the judges. So that is in progress right now.

USE OF RETIRED JUDGES

Senator Adams. Do you have any available retired judges that you can use——

Judge Ugast. I am using them and that is what has kept us alive, frankly, or being able to survive in this period where we do not have our authorized strength. The problem is, with many of the senior judges, many of them work for nothing. After a certain period of time they have reached the cap that they can earn and then they give of their time pro bono, so to speak.

Senator Adams. I understand.

FISCAL YEAR 1991 BUDGET REQUEST OF THE SUPERIOR COURT

Judge Ugast. Well, my statement indicates our request for $71 million, which represents a net increase of some $6,500,000 and 67 additional new positions. Seventy percent of the increase represents items over which either the court has no control and has to pay, such as mandatory nonjudicial pay raises, and then other than personal services, which involves payments to attorneys for child abuse and neglect, contractual services for youth, courts, data processing, and the like.

I think the new positions, and I realize the difficult time for the city and the revenue problems that all major cities are facing and which our city is facing, but I really believe that the number we are asking for here takes into account what we are trying to do in each division across the court in connection with the initiatives to deal with the drug problem.

I think it is important to understand that this drug epidemic has not just affected the Criminal Division of the court, it has affected the Family Division as well as the Civil Division.

One-half of the new positions are either for the Social Services Division, that is our probation department, the Criminal Division, or the Family Division.

There were 9,500 plus indictments filed in 1989, which, of course, as you know, has tripled since 1978, when there were 3,100.

Last year, 61 percent of the felony charges represented drug charges. The first 5 months of this year, 62 percent of the felonies represent drug charges. There are now pending 3,644 felony indictments as of May 31.

Senator Adams. Where is that in your statement, Judge Ugast?

Judge Ugast. I am not reading from my formal statement.

Senator Adams. I know you are not. I just want to know where it is in the statement.

Judge Ugast. It is up in the early part of it.

It is about page 3, sir.

Senator Adams. Page 3 under "Felony II Individual Judge Calendars?"

Judge Ugast. No; that is—page 3 of this statement—of the formal statement that was submitted to you.

Senator Adams. I can just give you the titles.

Judge Ugast. Well, it would be——

Senator Adams. On page 3 it starts with "Felony II Individual Judge Calendars."

Judge Ugast. It is before that. About a page before that, sir.

Senator Adams. Oh, it is on page 2. All right. I just wanted to be sure I marked my copy.

Judge Ugast. On page 2, sir, at the top, you see, and then the numbers.

Senator Adams. Yes.

Judge Ugast. And just to quickly give you the drug tests. Of the adult drug tests taken in 1988, 73 percent of those arrested tested positive; 64 percent for cocaine. In 1989, 67 percent tested positive, 62 percent for cocaine.

In May of this year, 56 percent tested positive, 54 percent positive for cocaine, up 3 percent from April. They are going down. It went back up ~~a little~~ bit in April. It is too early, I think, for us to draw any conclusions, but I am cautiously optimistic that we are reaching a point of turning around the drug use and the demand.

Getting right to the calendars, if I may, which I think most vividly presents the picture of what we are dealing with and what has happened with respect to the budget as well.

FELONY 1 CALENDARS

The felony 1 calendars and the accelerated felony calendars have reached what we consider critical levels in terms of reaching cases within acceptable timeframes.

Now our felony 1 calendars, that gets into the issue that you raised yourself, handle first degree murder cases, including felony murder and premeditated murder, rape, kidnapping, cases with four or more defendants, and conspiracy. They are the most serious felonies in the system.

I added an additional felony 1 calendar in October by taking a judge from the Civil Division. I did not have anymore judges. I still do not have any yet.

NUMBER OF PENDING FELONY 1 MURDER CASES

Nevertheless, those calendars have risen from 40 cases in 1986 to 84 as of last month on each calendar. There are over 160 first degree murder cases pending on——

Senator Adams. How many.

Judge Ugast. Over 160 pending on those three felony 1 calendars. Obviously, I intend to increase the number of those calendars if the judges are here by October 1 and it may be one, it may be two. There are about 35 child abuse cases that are also in there and whether I will remove them and put them on another calendar or leave them there may determine how many of the felony 1 calendars——

Senator ADAMS. But you have 160 pending murder 1 cases on your three felony 1 calendars?

Judge UGAST. That was a week or so ago, yes, sir. I take the indictments myself every week. We are taking returns two and three and four times a week and just yesterday I took one or two and one the day before.

First degree murder indictments are being returned at a much more rapid pace and I will—that also concerns the issue that was raised back a couple of months ago with the dismissal of some murder cases.

So that is the first issue that I have directed my attention to because they are the most serious cases. A very substantial percentage of those defendants are held without bond and those cases take much longer to try.

The accelerated felony calendars are the two calendars that deal with career criminal type cases where pretrial detention has been requested and there is a very short timeframe and that type of case.

They too have reached the level of 39 cases. They had been doing very well. They are getting very close to the level that I might have to add a calendar there because they are on a very fast track and that was the intention. So in that area, obviously resources are the key to move these cases as rapidly as they should be moved.

FELONY 2 INDIVIDUAL CALENDARS

Turning to the felony 2 individual calendars, we have 12 of those and those handle the other felonies. These calendars have gone from what we thought was manageable, 150 to 200. They are now at 278 cases per calendar as of May 31 and, frankly, are not as manageable as they should be. It impacts on the ability of the judges to try the cases within the acceptable timeframes.

What we are going to have to do there—I do not think we are going to have enough judges to really get those calendars down to 200—but what I intend to do is to put several judges as backup judges to try cases and do nothing but try cases so they are not involved in the other operations of the calendar.

That is where I also will mention to you that my projections that I gave to this committee last year are more conservative the way it is turning out in the criminal area.

Misdemeanors; we are holding our own as far as that goes, although they have increased to 322 cases on each calendar, which is more than they should be. I feel that those calendars can be handled around 275 to 300 cases, but they are right at the maximum level. We are still trying to manage them with the same resources.

IMPACT OF DRUGS ON FAMILY DIVISION

I will go back to the—well, maybe I better stop there. I was going to tell you about the Family Division a little bit, Mr. Chairman, and then I will go back to those—talk about the first degree murder issue that you raised.

In the Family Division, as I say, that division has likewise been impacted by the addict babies, the boarder babies, and the neglect cases, as well as the juvenile cases. There was some 5,800 juvenile and neglect filings in 1989, which is an increase from 1982 of 4,000 just to make a comparison. Also a substantial number of juveniles were charged with homicides.

The neglect petitions have jumped. There were some 609 new neglect petitions in 1988. That jumped to 917 in 1989. The drug tests in the juvenile area, they were down in December, but in April, 20 percent tested positive, 15 percent for cocaine. So, again, there is a little bit of a rise.

Again, as I say, I am cautiously optimistic, but it is too early I think to draw any conclusions that would be reliable.

We have worked in the child support operation to turn that around in the Family Division so that the District of Columbia, which was at the bottom of all the States, has now moved up and was first in the region, I believe, a month or so ago. We have turned that around, working closely with the Department of Human Services and the Corporation Counsel. It has been a team operation and we are very proud of that. We have a hotline for people to call in in connection with child support payments and whether checks have been sent.

We have established a laboratory at the court where blood samples may be taken to establish paternity and that is done right in the courthouse.

CIVIL DIVISION

On the civil side, I established a task force in April, 1 year ago, to study causes of and solutions to the delay problem of our civil caseload. It was running 24 months, maybe 27 months, for our cases to reach trial from the time they were at issue. This was a task force of members of the bar, the judiciary, administrators throughout the city, and they have made recommendations for the conversion of our whole civil operation to an individual calendar program.

We have two pilot calendars that have been operating since, I believe, October or December really in this area and we are making—we have made some rules changes together with early intervention by the court, extensive use of alternative dispute resolution and we believe we will be able to convert to these individual calendars come the end of this year, probably in December and January.

I am very optimistic about this and I think it is going to be one of the biggest changes we have made in the court since its establishment.

The Probation Service obviously is burdened by virtue of the number of cases in the system and additional probation officers are needed for some of the drug counseling programs. The child abuse team caseload, and specialized caseloads in the juvenile area are important.

Last year, and I think this way, if I may, I will move into the murder 1 situation. When I testified I believe I tried to document the court's need for 15 judges and at that time I was talking, I believe, about 4 for the Criminal Division and 4 for the Civil Division. I indicated that the seven additional judges would be needed particularly in connection with the legislation that was then pending for 700 to 1,000 more police officers, which, of course, takes time for Chief Fulwood to accomplish.

So I am hopeful that this additional need for judges may well be addressed in this session or certainly in the next session because of what I have talked about in terms of the caseload.

What has happened is that the projection that I made on the criminal side, without even the increase of police officers yet to the strength of some 5,055, I believe, has not, of course, been reached.

FIRST DEGREE MURDER CASES

Let me, if I may, address with you, Mr. Chairman, the first degree murder situation that you yourself raised. The issue that was confronting the court was one that I had previously discussed with Mr. Stephens prior to the issue that arose in some of the cases that were involved in one of the calendars by one of the judges.

There is a problem of getting these cases to trial, but that was not the issue. The issue was the timely return of grand jury indictments. As you know, we proceed under the Federal system. So all felonies are by indictment.

The problem was that a number of the first degree murder cases were taking a good deal longer to be presented and then indictments returned and a number of these people were being held without bond or on very high bonds.

The issue arose, I believe, in the particular cases, there may have been four or five that were involved, with the fact that the prosecutors were unable to make any showing to the judge that there had been any real effort yet made to make the presentations to the grand jury.

Although, under our statute there is a 9-month statute of limitations on indicting, under our rule, I believe rule 48, every effort is to be made to move promptly to indict. It was under our rule rather than the statute that the judge raised the issue with the U.S. attorney when he was unable to show that any effort had yet been made in the particular cases to present evidence to the grand jury.

Now let me just say that we are dealing with a new phenomena as well, in fairness to the U.S. attorney. The first degree murder cases, drug related, present issues of the type that we had not seen before in the sense that you are dealing with many witnesses who are also in drug enterprises, who are very hostile, and who are not easy both to locate and then to get to come forward.

The question really, I believe, came to a matter of resources and management and another complication was the fact that these murder cases are taking much longer to try. The assistants had certain times assigned to them in the grand jury. If they were still in trial then they were unable to make their presentation to the grand jury and they lost their time slot.

We have urged the U.S. attorney and—we were at that time and since that time the U.S. attorney's office received a new group of assistant U.S. attorneys and more resources have been put into that.

ADEQUATE NUMBER OF PROSECUTORS IN THE U.S. ATTORNEY'S OFFICE

Senator **Adams**. But that was the reason I asked the question because that is, as you know, under the home rule statute and so on, the U.S. attorney's office acts as prosecutor, but is a separate unit. It is under the Department of Justice and so on, but we had specifically gone through the fact because we were trying to patch the whole system at one time because we all know that it is like a hose. If it does not have all of its parts, it does not work. We were assured that there were going to be an additional number of U.S. attorneys and all I was trying to find out was whether or not this had occurred. That was the reason for my question. I do not care whether the U.S. attorney himself appears. I just want the information as to whether or not he has sufficient number of U.S. attorneys to maintain that.

Because I know we had the same kind of problem when I was U.S. district attorney. You indicted on Friday and you arraigned on Monday and then you were supposed to be prepared for trial. Now I know that is impossible in this situation, but it is a very fast moving system and particularly when you are dealing with murder 1.

Judge **Ugast**. Absolutely.

I had been discussing that with the U.S. attorney for——

Senator **Adams**. Are you satisfied that he has sufficient personnel?

Judge **Ugast**. I am satisfied that it has substantially improved. The number of first degree murder indictments that are being returned each week now have substantially increased and there are a new group of assistant U.S. attorneys coming on board July 9. I happen to know that because they ask me to meet them whenever they come. And then there is another group coming on, I believe, October 1.

Senator **Adams**. Well, I have known Judge Green a long time and I know that he is a very responsible person and I was just very concerned about this. I also know you and if there is a group moving through, then I will now turn my attention to that.

Judge **Ugast**. It is being addressed.

Senator **Adams**. But I do not like to read those things because what appears then is that we are not carrying out our responsibilities to see that you have the resources. It is difficult enough to produce those resources.

HAVING NEW JUDGES BY OCTOBER 1, 1990

Judge **Ugast**. I understand and that is why, you know, I had hoped to be able to be back here by this time saying that the process had moved a little more quickly. The combination of 60 days in the commission, 60 days at the White House, and then up here in the Congress, which is so busy, I have not received the resources that you hoped I would have. But I am sure hoping that we will be able to have them.

I would like to have them by October 1 because that is when I want to make these changes in calendars to try to address these various needs.

RESOURCES OF THE U.S. ATTORNEY'S OFFICE AND U.S. MARSHAL'S OFFICE

Senator ADAMS. Well, we will submit questions to the U.S. attorney or to the Department of Justice for the U.S. attorney's office. I am not trying to micromanage his shop, I just want to know if there is enough people there to run a murder 1 calendar or a set of calendars and that you have enough judges to run a murder 1 calendar or a set of calendars.

I am not saying that that is the only calendar. I think it is appalling we are not able to get you down below 2 years in your civil cases, but we are trying to do first things first. Your testimony is very helpful.

Judge UGAST. And the same thing is true with the U.S. Marshal Service. We are hoping that the Justice Department is going to have some 20 more marshals to go with the increased judgeships that you all have seen fit to establish for us. Again, it is in a different committee and their appropriations come through Justice. So that we——

Senator ADAMS. Well, I sit on that committee too. So you let me know about that.

Judge UGAST. All right.

So that is a concern as well because we need all the support and both of those are Federal.

The impact of additional police officers; I have met with Chief Fulwood and Mr. Stephens in terms of where the court is involved, not in law enforcement strategy, but how they intend to proceed and the policies they intend to utilize in efforts to try to plan the impact on the court and the calendars. We have been doing that. I do not know whether Chief Fulwood has been here yet, but he has indicated his approach to the drug area and to the use of additional resources. The additional judges that I suggested last year that would be necessary in connection with the additional police officers is certainly well founded and my projections actually on what would happen in the criminal area already without the additional police officers is over what I had anticipated.

In closing, I would be happy to answer any other questions. I want to thank you again for your consideration of our needs and your consideration for our problems and trying to give us resources where it is possible.

CLOSING REMARKS

Senator ADAMS. Well, Judge Ugast, I appreciate your testimony and that of Justice Rogers. It is just that I have been in the trenches on these kinds of things. As I say, it has been a considerable period of time ago and I just recognize that there is a very severe problem on the streets of this city and I want to be certain that this committee carries out its responsibilities to provide the necessary resources.

That is what I am trying to find out. And if we do that, then we sometimes can press for additional money beyond the Federal payment or elsewhere to handle a particular problem, which is a problem that is unfortunately not unusual just to this city, but, unfortunately, it is spreading throughout the country, but we have to deal with it here first and I just want to be sure we do it.

Thank you for your testimony.

D.C. COURT SYSTEM

STATEMENT OF ULYSSES B. HAMMOND, EXECUTIVE OFFICER

PREPARED STATEMENT

Senator ADAMS. It is a great pleasure to have you here this morning, Mr. Hammond. We look forward to hearing your testimony.

Mr. HAMMOND. Thank you, Mr. Chairman.

It is truly an honor for me to come before you today to present my first statement on behalf of the D.C. court system.

I would request also that our prepared statement be made a part of the record.

Senator ADAMS. Without objection, your entire statement will appear in full in the record as though given.

[The statement follows:]

STATEMENT OF ULYSSES B. HAMMOND

Thank you Mr. Chairman and members of the District of Columbia Subcommittee of the Senate Appropriations Committee, it is truly an honor for me to come before you today to present my first statement on behalf of the District of Columbia Court System. I would request that our prepared statement be made a part of the record.

Although the Court System is requesting a fiscal year 1991 operating budget of $23,892,000, an increase of $1,767,000 and 14 positions over fiscal year 1990, only $425,000 (or 24.1 percent) of the total increases requested in the operating budget is specifically for the operation of the D.C. Court System offices. This increase consists of $155,000 for mandatory pay increases for non-judicial employees, within-grades and employee benefits. Three critical positions for the Executive Office are being requested at $176,000 to provide needed management, technical and human resource development assistance to the District of Columbia Courts. The remainder provides for three additional transcriber positions for the Court Reporting Division at a cost of $60,000 to assist in furnishing transcripts from the ever-increasing volume of cases electronically recorded. The remaining funds requested ($34,000) are for various increases in the cost of printing, supplies, training, insurance, etc. The District Government has recommended only four positions and $133,000 of the $425,000, which represents only partial funding for the fiscal year 1991 mandatory pay increase items.

As in previous years, the lion's share of the requested increase (56.6 percent) is $1 million for the Criminal Justice Act program, which provides for the defense of the vast majority of indigent adult and juvenile defendants in criminal matters before the District of Columbia Courts.

In an effort to more appropriately allocate staff between the Superior Court and the Court System, we are requesting that eight Court Reporter positions authorized last year in the Superior Court budget be transferred to the Court System. This action has not been recommended by the District Government.

Finally, I would like to call to your attention the Courts' Capital budget request for fiscal year 1991. Space management is one of the toughest issues facing the Courts. Much like other governmental entities, we are faced with increased demand and very short supply. Our options are limited to renovation and restoration of current facilities or new construction. The former appears to be more efficient—to restore and renovate four buildings that comprise the D.C. Courthouse and Judiciary Square facilities.

The 1991 Capital budget request of the District of Columbia Courts is $29,215,000 for ten projects to:

Renovate existing space at 500 Indiana Avenue, N.W. to provide chambers for new appellate judges and staff ($2,660,000);

Renovate existing space at 500 Indiana Avenue, N.W. for additional courtrooms and chambers for new Superior Court judges ($8 million);

Upon completion of current and impending projects, the District of Columbia Courthouse will not accommodate the future primary space requirements of the District of Columbia Courts, therefore, authority is required to restore and renovate 451 Indiana Avenue, N.W. (Building D) ($10 million);

Increasing caseloads, the demand to expand court services and programs, and the implementation of statutorily mandated initiatives require the Court System to renovate Buildings A and B (515 5th Street, N.W. and 409 E Street, N.W.) to accommodate court personnel. To meet the specific needs of the D.C. Courts, authorization of a $2 million Capital project is requested;

Two major new programs, Alternative Dispute Resolution and Guardianship and Protective Proceedings, require office space, file area, public circulation areas, reception facilities, and hearing rooms to accommodate the needs of these programs. Therefore, $1 million is requested for this purpose;

Additional courtrooms and the obsolescence of the existing central recording equipment require an additional $2,150,000 in new capital authority to upgrade, replace and modernize key system components, which frequently cause critical system malfunctions;

Two of these projects involve a request for $1,465,000 to improve security, prisoner transfers and efficient movement of court personnel throughout the building by expanding elevator service and constructing secure stairwell and corridor areas for prisoner transfers and personnel;

General improvements to the buildings in the Judiciary Square area are drastically needed. It is the responsibility of the District of Columbia courts to maintain these buildings, and improvements will entail architectural mechanical electrical and site improvements. Provisions for the handicapped must also be provided. It is estimated that these improvements will total $1,940,000.

On behalf of the District of Columbia courts I want to thank you Mr. Chairman and the members of the committee for your consideration of our budget submissions and ask that you act favorably upon our request.

OPENING REMARKS OF THE EXECUTIVE OFFICER, ULYSSES HAMMOND

Mr. HAMMOND. Thank you.

Although the court system is requesting a fiscal year 1991 operating budget of $23,892,000, an increase of $1.7 million and 14 positions over fiscal year 1990, only $425,000 and a little less than 25 percent of the total increases requested in the operating budget is specifically for the operation of the D.C. court system offices.

This increase consists of $155,000 for mandatory pay increases for nonjudicial employees, within grades and employee benefits.

Three critical positions for the executive office are being requested at $176,000 to provide needed management, technical, and human resource development assistance to the D.C. courts. The remainder provides for three additional transcriber positions for the Court Reporting Division at a cost of $60,000 to assist in furnishing transcripts from the ever increasing volume of cases electronically recorded.

The remaining funds requested, that is $34,000, are for various increases in the cost of printing, supplies, training, insurance, et cetera.

The District government has recommended only four positions and $133,000 of the $425,000, which represents only partial funding for the fiscal year 1991 mandatory pay increase items.

As in previous years, the lion's share of the requested increase, which represents roughly 56 percent, is $1 million for the Criminal Justice Act program, which provides for the defense of the vast majority of indigent adult and juvenile defendants in criminal matters before the D.C. courts.

In an effort to more appropriately allocate staff between the superior court and the court system, we are requesting that court reporter positions authorized last year in the superior court budget be transferred to the court system. This action has not been recommended by the District government.

Finally, I would like to call your attention to the court's capital budget request for fiscal year 1991. Space management is one of the toughest issues facing the courts. Much like other governmental entities, we are faced with increased demand and very short supply.

Our options are limited to renovation and restoration of current facilities or new construction. The former appears to be more efficient, that is, to restore and renovate four buildings that comprise the D.C. Courthouse and Judiciary Square facilities.

BUDGET REQUEST

The 1991 capital budget request of the D.C. court is $29,215,000 for 10 projects to renovate existing space at 500 Indiana Avenue, NW, to provide chambers for new appellate judges and staff at $2.6 million; also to renovate existing space at 500 Indiana Avenue for additional courtrooms and chambers for new superior court judges.

Upon completion of current and impending projects, the D.C. courthouse will not accommodate future primary space requirements of the D.C. courts. Therefore, authority is required to restore and renovate 451 Indiana Avenue, known as building D, at an approximate cost of $10 million.

Increasing caseloads, the demand to expand court services and programs, and the implementation of statutorily mandated initiatives require the court system to renovate buildings A and B to accommodate court personnel. To meet the specific needs of the D.C. courts, authorization of a $2 million capital project is requested for the renovation of these two buildings.

Two major new programs, alternative dispute resolution and guardianship and protective proceedings, require office space, file area, public circulation areas, reception facilities, and hearing rooms to accommodate the needs of these programs. Therefore, $1 million is requested for this purpose.

Additional courtrooms and the obsolescence of the existing central recording equipment require an additional $2.1 million in new capital authority to upgrade, replace, and modernize key system components, which frequently cause critical system malfunctions.

Two of these projects involve a request for $1.4 million to improve security, prisoner transfers, and efficient movement of court personnel throughout the building by expanding elevator service and constructing secure stairwell and corridor areas for prisoner transfers and personnel.

General improvements to the buildings in the Judiciary Square area are drastically needed. It is the responsibility of the D.C. courts to maintain these buildings, and improvements will entail architectural, mechanical, electrical, and site improvements.

Provisions for the handicapped must also be provided. It is estimated that these improvements will total approximately $1.9 million.

On behalf of the D.C. courts, Mr. Chairman, I would like to thank you for consideration of our budget and ask that these submissions that have been made today be acted upon favorably.

SECURITY AT THE COURTHOUSE

Senator **Adams**. Thank you, Mr. Hammond. I am going to ask Mr. Leeth and he will be contacting also the House committee and they will discuss with you in more detail some of the specifics that you have requested.

I have one question. Last year, we had a problem of security and we appropriated some funds for you to contact the U.S. Marshal Service for improved courthouse security.

Has the security improved and did the District include these funds in your fiscal year 1991 budget?

Mr. **Hammond**. The security has improved tremendously and we want to thank you for that support.

The response from the city thus far has been to support the base that was provided for last year.

However, on reviewing and analyzing the level of security that we were able to contract with the U.S. Marshal Service for this year, we have made a determination that a slight increase will be needed with respect to security.

Senator **Adams**. Is that included in your request?

Mr. **Hammond**. I was just provided with this analysis by staff as of this week. So we are still in the process of analyzing that.

Senator **Adams**. All right. Fine. If you would give that information to my staff as we go along.

Mr. **Hammond**. I would be delighted to supply that information.

Senator **Adams**. I want to thank all of you for being here this morning. I know maybe it is a little unusual that we spend this amount of time on what is ordinarily a more mechanical business, but I am terribly concerned about what has happened and what is happening day by day in the city and I appreciate what all of you are doing and we want to be supportive and the committee wants to be supportive.

We will stand in recess until tomorrow and I want to thank all of you again for your time and attendance and I will submit written inquiries to the U.S. attorney's office and I may have to be back to submit written inquiries to you if I am not satisfied with the reply I receive.

SUBCOMMITTEE RECESS

The subcommittee is going to stand in recesss until tomorrow, June 28, at 10 o'clock, when we will conclude our hearings on this portion of the budget with witnesses from the D.C. Public Schools and the Committee on Public Education.

Thank you and we stand in recess.

[Whereupon, at 11:17 a.m., Wednesday, June 27, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, June 28.]

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, JUNE 28, 1990

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in joint session with the House subcommittee in room H-301, the Capitol, Hon. Dean A. Gallo presiding.

Present: Representatives Dixon and Gallo, and Senator Adams.

NONDEPARTMENTAL WITNESSES

ABORTIONS

STATEMENT OF ROSANN WISMAN, EXECUTIVE DIRECTOR, PLANNED PARENTHOOD OF METROPOLITAN WASHINGTON, DC, INC.

PREPARED STATEMENT

Mr. GALLO. If I may call the committee to order. Today we are continuing our joint hearing with the Senate for the purpose of receiving testimony from outside witnesses who wish to testify about the District's fiscal year 1991 budget.

We heard from 10 witnesses last Thursday, and today we have 15 witnesses scheduled, and our first witness is Rosann Wisman.

We have your statement which we will make part of the record. If you would like to modify or reduce it in an effort to save on time, please feel free to do so.

[The statement follows:]

STATEMENT OF ROSANN WISMAN

Mr. Chairman and Distinguished Members of the Committees:

I am Rosann Wisman, Executive Director of Planned Parenthood of Metropolitan Washington. I appreciate the opportunity to appear once again before a joint meeting of the Appropriations Sub-Committees of the House and Senate Appropriations Committees.

Planned Parenthood of Metropolitan Washington is the oldest and largest provider of family planning services with eight clinics in the national capital area. Our three District clinics serve 10,000 low-income women and men each year. We provide more family planning services to prevent the need for abortion than any other organization in our community.

But unintended pregnancies, even with the use of contraception, are a reality. We believe that women must have the option of a safe, dignified, and affordable abortion. Thus we also offer abortion services. Planned Parenthood of Metropolitan Washington is the major provider of abortion services in the District.

The political climate has changed dramatically since last summer when I first testified before this Committee. At that time, none of us expected that a majority of the House would defeat the Dornan amendment to renew for another year the restriction which prohibits the District of Columbia from using local tax funds to support abortion services for poor women. Today I believe that an even larger majority in both Houses will vote to end this intolerable restriction.

But an improved political climate -- one in which elected officials across the country are affirming the right of women to choose an abortion -- has yet to affect the lives of thousands of poor women in the District of Columbia.

In the words of the Equitable Treatment in Abortion Funding Resolution, adopted this winter by the District Council, the funding restriction continues to be "detrimental to the health and well-being of poor women and their families."

This restriction falls hardest on Washington's minority women. More than 72% of District women who obtain abortions are Black or members of other minority groups.

When I testified before the Committees last July, I told Members of the Committees about three women who came to Planned Parenthood of Metropolitan Washington after the funding restriction was enacted in 1988. Each of those women -- one who lived in a homeless shelter, one who lived on the streets, and one who was HIV positive -- had been able to obtain an abortion only because through good luck and perseverance, they found Planned Parenthood.

Just before Christmas, only weeks after President Bush vetoed the D.C. budget bill because it lifted the funding restriction, the Washington Post reported the story of a twelve year old girl, a ward of the court, whose pregnancy was the result of sexual assaults by an older cousin. The girl, who was examined by Planned Parenthood's Medical Director, wanted an abortion, but had no money.

Planned Parenthood of Metropolitan Washington continues to see women -- in increasing numbers -- who but for the funding restriction would have been assisted by the District of Columbia.

I want to take a few minutes of your time to tell you about five Medicaid eligible women seen recently at Planned Parenthood. Not one of these women had the money to pay for an abortion. In order to protect their identities, I am using only initials.

D.S., who is seventeen, lives with her two children in a District shelter. She is in a job training program. She is trying to develop work skills so she can support her family. She became pregnant when the birth control she was using failed. She could not afford another child.

K.H. was raped at age fourteen. Her mother, who works two jobs to keep the family together, came with K.H. to our clinic. Her mother said, "My daughter is desperate. I'm afraid she might try to kill herself, or maybe find a back alley somewhere."

A.M. has a cleaning job in a government office. She earns $400 a month. A.M. has three children. She shares a room with another woman who also has several children. A.M.'s partner deserted her.

F.C. has been addicted to heroin and cocaine. She has an eighteen month old son. She is in a methadone treatment program.

D.F. is twenty-nine years old, the mother of two children. She has battled cancer, asthma, drug addiction, and depression. She told us that if she had not been able to obtain the abortion at Planned Parenthood, she would have induced the abortion herself.

These stories are of some of the most desperate women whom we have seen at Planned Parenthood.

There are hundreds of other women whom we see whose lives are affected by the funding restriction. They too are struggling with problems in their lives relating to jobs, education, marriage, drug abuse and crime which result in a grim existence, not only for themselves, but often for their children. They know they cannot provide the financial or emotional support needed to care for a child. They have made very personal and responsible decisions for themselves and their families.

Some of these women delay seeking services while they are attempting to scrape together the money to pay for an abortion. Since the funding restriction went into effect, we have seen an increase in the number of women who first come to us at later stages in their pregnancy. Some are already in the second trimester -- a point at which the procedure is more expensive and entails a somewhat greater medical risk to the patient.

Because Planned Parenthood offers services at no charge or nominal charge to poor women, almost every woman fortunate enough to get to us is able to obtain the abortion each had determined was necessary.

Not all women seeking abortion services are so fortunate.

I want to tell you one more story.

G.K. has an eight month old baby. She has no money and no means of support. G.K. is mildly mentally retarded. When she discovered she was pregnant, she decided that she could neither care for nor support another child.

She had no money. She learned that the District would not pay for her abortion. She did not initially attempt to secure abortion services. By the time G.K. appeared at Planned Parenthood, her pregnancy was too advanced for her to have an abortion.

G.K.'s story reminds us that the restriction completely denies some women the right to determine when and if they will bear children.

G.K. is only one of hundreds of District women who, as a consequence of the funding restriction, are forced to bear a child against their will and against their best judgement.

Planned Parenthood of Metropolitan Washington is doing everything it can to help those women fortunate enough to find us.

But private charity is not sufficient. Planned Parenthood cannot continue to offer abortions at no charge or at a nominal fee to women in great need without severely curtailing our basic family planning health services. Reducing our family planning services would only compound the problem of unintended pregnancies and increase the need for abortion!

I am hopeful that again this year the Committees will report the D.C. Appropriations bill to the House and Senate without restrictive language.

I am hopeful that both Houses will send the D. C. Appropriations bill to the President without restrictive language.

And I am even hopeful that this year President Bush will respect the decision reached by citizens of the District to assist poor women who choose abortion.

Ms. WISMAN. Thank you, Mr. Chairman and distinguished members of the committee.

I have a little bit of laryngitis, so that is good for you because I am going to keep this very brief.

Rosann Wisman. I am executive director of Planned Parenthood of Metropolitan Washington. It is a pleasure to speak before you again this year. I spoke last year. We, of course, were very appreciative of your strong support on the issue of using local dollars to fund abortions for poor women.

Planned Parenthood of Metropolitan Washington is the largest provider of family planning services in the Washington area, and we serve 10,000 low-income women in the District. I want to emphasize that Planned Parenthood of Metropolitan Washington does more to prevent the need for abortion than any other organization in our community, but even with the use of contraceptives, unintended pregnancy is a reality, and we believe that women must have safe, dignified, and affordable abortion services as an option for them.

Because we believe that, we are also a major provider of abortions in the District. We would like to think that the political and legislative climate has changed since I testified before the committee last year, and I would like to think that on this issue it's changed for the better.

We would hope, and I believe that an even larger majority in both Houses will vote to end the restrictions on D.C.'s right to use local tax dollars to provide abortions for poor women this year, but the reality is that the improved political climate in the legislative climate, at least, really has not helped or improved the lives of the poor women that we continue to see in our clinics.

The restrictions fall hardest on minority women, particularly in the District where 72 percent of the women who have abortions are black or members of another minority group. Last year when I testified I told you about three women, a woman who lived in a homeless shelter, a woman who lived on the streets, and a woman who was HIV positive.

These women, through their good luck and tenacity and perseverance, were able to negotiate the system, and the found their way to Planned Parenthood. We were able to help them. The stories this year are pretty much the same. It is just that we have more of them.

Women in this city are desperate, the are trying to make what they believe is a responsible and moral decision for themselves and their family. I want to tell you about a few of just the most compelling stories that—these are women we have seen recently in our clinic. I will use their initials to protect their confidentiality.

D.S. is 17. She lives with her two children in a District shelter. She is in a job training program. She is trying to develop work skills so she can support her family. She became pregnant when the birth control she was using failed and she could not afford another child. We were able to help her get an abortion that she chose.

K.H. was raped at the age of 14. Her mother, who works two jobs to keep the family together, came with N.H. to our clinic. Her mother said, my daughter is desperate. I am afraid she might try to kill herself or maybe find a back alley somewhere.

A.M. has a cleaning job in a government office. She earns $400 a month. A.M. has three children. She shares a room with another woman who also has several children. Her partner, who she was not married to, deserted her.

F.C. has been addicted to heroin and cocaine. She has an 18-month old son. She is in a methadone treatment program.

And, finally, D.F. is a 29-year-old, the mother of two children. She has battle cancer, asthma, drug addiction, and depression. She told us that if she was not able to obtain an abortion at Planned Parenthood, she would induce an abortion herself.

These are some of the stories. There are hundreds more like this. These women are struggling with problems in their lives relating to jobs, education, marriage, drugs, crime, and it results in a very grim existence for them and for their families. Many of these women are only able to get an abortion after they have delayed, which means that the come to us, their pregnancy is farther along. It is more a medical risk for them, and it is a more expensive procedure.

I am very proud that Planned Parenthood has been able to help so many women, but we just cannot help all of them. The more we do to help women get low or no-cost abortions, the more we take resources away from our family planning services, and that just is completely illogical.

It just compounds the problem. The saddest stories are the ones for the women who could not be helped, and the are ones that really do get lost in the system, and for example, G.K. came to us. She already had an 8-month-old baby. She was mildly mentally retarded, she had no money, she didn't know what to do or where to turn. In her case she was too far along at that point to have the abortion, and so she had a baby that she knew at the time she could not emotionally or financially or intellectually care for.

These delays in getting abortions, high-risk pregnancies impact what is already a tremendous problem in the District in terms of infant mortality. I have brought a document that I want to give to you that really speaks to the impact of lack of adequate abortion services on the health of women and not only the health of women, but their children and their families, so I will leave this with you.

The District residents and our elected officials have wanted to be able to use our local dollars to help these women. You know that. You have been very supportive in the past and have agreed with that position. As I said before, I am confident that both Houses will agree with that position this year, and it is only with that kind of divisive and strong action that we can convince our President to go along with that is the will of District residents about helping our own residents make decisions that are important for their lives and their families, so I will leave this with you.

Thank you very much.

PLANNED PARENTHOOD BUDGET

Mr. GALLO. Thank you for your testimony. What does Planned Parenthood spend and what is the source of those dollars?

Ms. Wisman. Well, this past year we—in support of helping women get low-cost or no-cost abortions was right around $100,000. That is not anywhere near obviously what the funds were for Medicaid funding, and so we are just helping really only those woman who—we just got a call the other day from a nurse at Children's Hospital, who was trying to negotiate—this was a girl who was HIV positive.

I mean, oftentimes the women who come to us are ones who have an advocate. There is a social worker, a nurse or somebody who has kind of helped them find us. It was the women who are on the streets and who really don't know where to turn that get lost in the system. And I can tell you that that $100,000 would pay for a lot of contraceptive care.

What we are trying to do now, frankly, is we have kind of a short list of people in the community who have told us that when we hear of a situation that is really desperate we should call them. That is a really timeconsuming way to try to provide medical services. It is time-consuming for our staff, but it is all private dollars that we are——

Mr. Gallo. What is your overall budget?

Ms. Wisman. Our overall budget is around $5 million. Most of it goes to pay for contraceptive services. We have eight clinics in the Washington area, and we see about 25,000 women for contraceptive services as well as our community education and training programs.

So we have what we call a justice fund, and it is always empty. Whenever we get any money, it is gone. We have two clinics where we do provide low-cost abortions, one in the District, one also in Silver Spring, and the time involved in just simply doing—we have a volunteer who is working full time right now, thank goodness, who has been recruited because of the desperation of this whole situation, and she is doing some of the financial screening.

I mean, obviously we cannot help every woman who comes in and says she is poor, so we try to go through some sort of a screening process, and we try to make a judgment call about how desperate is that woman. Does she have any other resources? Is there any way that she can come up with the money, and we try to hopefully make those judgment calls in a way that the women who need the most help get it, but we know that some women go away and are still left with not just desperate situations, but really totally undignified kinds of ways where they are just groveling to try to come up with the money to get the service. You know that.

Mr. Gallo. I am not sure the climate has changed.

Ms. Wisman. Right, I know.

Mr. Gallo. But I do think there is a better understanding of the problem and a movement in what I would classify as the right direction. Mr. Dixon has joined us. If the chairman would like to——

Mr. Dixon. Oh, no, please continue, Mr. Gallo.

Mr. Green. I have no questions.

Mr. Gallo. Ms. Wisman, I want to thank you for your testimony here today, and your dedication.

Ms. Wisman. Thank you.

Mr. Dixon. If you don't mind, Mr. Gallo, please go ahead until I have my coffee.

FIRE DEPARTMENT

STATEMENTS OF:

- **THOMAS N. TIPPETT, PRESIDENT, D.C. FIRE FIGHTERS ASSOCIATION, LOCAL 36 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO-MWC**
- **RAYMOND SNEED, FIRST VICE PRESIDENT AND CHAIRMAN OF THE BOARD, D.C. FIRE FIGHTERS ASSOCIATION, LOCAL 36 OF THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO-MWC**
- **JOHN M. CAVENAGH, DIRECTOR, EMERGENCY AMBULANCE SERVICE, D.C. FIRE DEPARTMENT**
- **JAMES E. GALLAGHER, DEPUTY CHIEF, D.C. FIRE DEPARTMENT**
- **WILLIAM McLAUGHLIN, VICE PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 3721**

PREPARED STATEMENT

Mr. GALLO. Next we have Thomas Tippett, who is the president of the Fire Fighters Association, Local 36.

Mr. TIPPETT. I believe you have copies of our testimony.

Mr. GALLO. We will make your written testimony a part of the record. If you would like to summarize or hit the high spots, please feel free to do so.

[The statement follows:]

STATEMENT OF THOMAS N. TIPPETT

Chairman Dixon, members of the Sub-Committee and staff, I am Thomas N. Tippett, President of the District of Columbia Fire Fighters Association, Local 36 of the International Association of Fire Fighters, AFL-CIO-MWC. Accompanying me today is Raymond Sneed, 1st Vice President of Local 36 and Chairman of our Board of Directors. We appreciate the opportunity to appear before the sub-committee to offer our views and evaluations of the proposed operating budget of the D.C. Fire Department for FY 1991. In the interest of time I will attempt to be concise and to the point.

One Hour Breathing Apparatus

In 1985, at the urging of Local 36, this sub-committee, under your leadership, laid the groundwork and insisted that the DCFD provide our firefighters with the safety of entering a burning building, subway tunnel or contaminated area with a one hour supply of air. I would remind the sub-committee that this issue was not readily accepted by the administration of the Fire Department and past budget transcripts will document that Mr. Dixon relentlessly pursued this issue until it became a reality. Once again we humbly say thank you.

On March 7, 1990 a second alarm fire raged through Tech World, a high rise structure located at 9th and New York Ave., N.W. First arriving units said the fire reminded them of scenes from the Towering Inferno movie. During the initial stages of the fire, as firefighters attempted to work their way to the 10th floor and locate the seat of the blaze, because of the dense acrid smoke and the zero visibility, two firefighters were separated from their engine company. They were located near a stairwell, by members of a heavy duty rescue squad. One firefigher had exhausted his air supply and was in full cardiac arrest. The other firefighter still had a small supply of air left in his tank. Members of Rescue Squad 1 immediately moved the fallen firefighter to a safe area where a team began CPR and mouth-to-mouth resuscitation and revived our brother firefighter. It's ironic, and yet a tribute to the interest of this sub-committee and their commitment to public safety that (a) two firefighters are alive today because of the one hour masks and (b) both the masks and the heavy duty rescue squad that located these two firefighters were a result of legislative action by this sub-committee that directed the city to continue their operation.

This sub-committee and the D.C. City Council Committee on the Judiciary, under the leadership of Chairperson Wilhelmina Rolark, have continually rebuffed the efforts of the city administration to reduce the level of fire protection for the citizens, workers and visitors to the Nation's Capitol. Your efforts and the efforts of the City Council have resulted in the saving of many lives.

PROMOTIONS

The most debilitating issue affecting the morale of our department is the inability of the men and women I represent to compete for higher rank (Sgt., Lt. and Captain.) They have been denied this opportunity to compete, thru competitive examination, since 1984. The department, I believe, is fast approaching a critical stage of not having qualified individuals to replace our rapidly depleting officer ranks. The situation is exaacerbated by current vacancies and the potential for 300 senior veterans retiring in August, 1990.

It's a disgrace and an embarrassment that the District has already spent over $330,000 to some "experts" to develop a new promotional system and it appears we are no closer to resolving the promotional issue than we were in 1984. Someone has got to take charge and make calm out of chaos.

OVERTIME

Regarding overtime, why the department refuses to implement a cost management system - is beyond our comprehension. For example, in FY 1981 the overtime was $544,600 (and that was with Ladder Companies having a compliment of six firefighters.) Please note that the increase in overtime closely parallels the court ordered freeze on hiring and the detailing of officers and firefighters from the Firefighting Division to unauthorized, unfunded positions in other divisions which necessitated backfilling those members detailed with overtime. Compounding this laissez - faire method of management was the 1980 imposed city residency requirement that resulted in the inability to hire and retain EMTs, paramedics and workers for the Communications Division. How did those vacancies get staffed? On a temporary basis with a firefighter from the Firefighting Division who was detailed to fill that vacancy, who inturn had to be replaced by a firefighter on overtime.

The City Council totally rejected the argument of blaming the overtime on manning. "The department has long operated with 5-man, 2-piece companies. Overtime did not begin to increase dramatically until the Department's involvement in affirmative action litigation interrupted its hiring schedule". (City Council Report - FY 1990 Budget Document, page 13.) The fact of the matter is the management of the Fire Department can't indentify where the overtime money is going. The bookkeeping and financial management system of the DCFD operates in a vaccum. ALL questions that relate to overtime and that need an explanation are blamed on the 5 person engine companies. The truth of the matter, and the crux of the problem, is the fact that an effective managment system does not exist in the D.C. Fire Department. Members of your sub-committee have quizzed Fire Department officials, numerous times, during budget hearings and the responses by these officials are embarrassing because they simply can't explain where the money is going. During the recent budget hearings before the city council, Fire Chief Alfred requested over half a million dollars to fully fund all positions in the Office of the Fire Chief and Communications Division - this request was denied! The City Council budget report contains the following: "The Committee (Judiciary) believes that all positions in the the department are funded. Since the Fire Chief failed to adequately explain the need for this increase during the budget hearing, the Committee recommends that this request be denied until a full explanation can obtained". (City Council budget report, Committee on the Judiciary, Page 11.)

In 1981 we operated our units with more firefighters and our overtime costs were less. The bottom line is this, the dramatic increase in overtime spending is directly related to the recently abolished residency requirement which resulted in the inability to hire and retain a public safety work force; the complete disregard of operating within the framework of a budget and thus detailing officers and firefighters from the Firefighting Division to unauthorized/unfunded positions; and backfilling those positions with overtime firefighters; the court ordered freeze on hiring due to the Fire Department's illegal hiring plan and the failure of the DCFD to have an effective and efficient cost management system.

Manning is not the culprit that fire officials have made it out to be. It's the financial management system - or lack of one! We are experiencing a void of leadership that is exacerbating the problems currently facing the DCFD and the D.C. Government.

Local 36 has filed several Freedom of Information Requests dealing with overtime and the results are staggering. In FY 1989 there were a total of 3,317 uniformed firefighters detailed to the Emergency Ambulance Bureau and Communications Division. I repeat 3,317 uniformed firefighters deailed to other divisions because of personnel shortages. If this was private industry the stockholders would be clamoring for someone's removal for poor management.

AMBULANCE SERVICE

The ambulance service is still the same - or worse! According to the 1984 Congressional hearing transcript the response time then was 8.8 minutes. On 4-16-90 a District official told the Washington Post, in the article on District Homicides, that the ambulance response rate was back up to 9.9 minutes.

The budget document you will be considering indicates the response time is 6.6 minutes. This looks good on paper but I submit you'll have a hard time convincing the citizens of the District of Columbia that they can expect an ambulance in 6.6 minutes. The D.C. City Council directed the Fire Department to maintain at least 22 ambulances in service at all times. This directive was not followed. On January 27, 1989 the EAB began a "test run" of reducing the available ambulance fleet by 27 percent during what officials consider a "non peak period". The City Council again directed the Fire Department to maintain at least 22 ambulances in service at all times. The Fire Department again ignored this directive. During the budget hearings, the Ambulance Director, John Cavanagh, told the City Council that the Mayor had the authority to direct the deployment of ambulances and the reduction would continue. The City Council once again has directed the Fire Department to maintain 22 ambulances in services at all times. Local 36 is convinced that unless this sub-committee provides Bill Language that directs the Fire Department to abide by the direction of the City Council there will continue to be a shortage of ambulances.

On April 25th Mayor Barry held a press conference to announce the "new plan" to deal with the ambulance crisis. The "new plan" has an estimated cost of $8 million the first year, and according to the Mayor doesn't need City

Council approval. Mr. Dixon, I submit that this plan is ludicrous and if implemented the way it was explained at the press conference, does nothing to improve the daily delivery of Emergency Medical Service and merely rewards incompetence. The "new plan" is contrary to the final recommendation of the Mayor's steering committee chaired by the former Director of Emergency Preparedness, Mr. Joseph Yeldell.

The committee reached their decision after visiting numerous cities of comparable size and spending thousands of dollars in travel expense and salaries of staff, only to see their recommendation rejected because "politically" it wasn't acceptable. Local 36 believes the only way to dramatically improve the delivery of Emergency Medical Service and to regain its former status of respect, integrity and public trust is to give it back to the Uniformed Division. On May 15, 1990 Local 36 received a response from Fire Chief Alfred regarding a Freedom of Information Request we filed requesting a copy of the "New Ambulance Plan". It now appears that there is no plan, but an $8 million "realignment". It appears that another cruel ambulance hoax has been perpetrated on the citizens of the District of Columbia by their Chief Executive. How much longer the citizens of the District will tolerate this half-assed Ambulance Service remains to be seen. However, Local 36 wants to be on record as opposing this $8 million realignment. It cannot be justified.

Something is inherently wrong with our delivery of emergency medical services when the city of Baltimore operates fewer ambulances, serves a population greater than the District of Columbia and has a better response time than the D.C. Fire Department. This can lead to but one conclusion; total mismanagement and incompetence. We've gone from a system that was once highly trained and nationally respected, to the present system that has been described by the Director of a local trauma center as "worse than the ambulance service of those found in a third world nation".

BFC ADMINISTRATIVE ASSISTANTS

We strongly urge the Sub-Committee to reject the request found on page 1133, that would reduce the number of firefighters maintained in a pool to replace firefighters who have to leave their units because of injury, illness, or other unforeseen circumstances. What the department fails to tell the sub-committee is the fact that these firefighters are fulfilling three-fold duties. First, they are the Administrative Assistants to the 8 Battalion offices to which they are respectively assigned. (Imagine, Chairman Dixon, trying to administer your office without the expertise of Mr. Miconi to assist you.) Secondly, they respond, with the Battalion Fire Chief to the location of the emergency and become an integral part of the Fire Ground Command Structure. ~~And thirdly,~~ they provide the resources of the manpower pool. Once again it would appear that management would attempt to reduce a workstation that provides for high productivity, yet they request you to approve an increase in passenger carrying vehicles from 42 to 70. Many of these vehicles have become "personal vehicles" and can be found, after business hours and on weekends, in Maryland and Virginia. To permit removal of a firefighter from the Firefighting Division yet allow an increase in the "personal vehicle fleet" cannot be justified. We urge this committee to reject this reduction and add Bill language that would protect the Administration Assistants to the 8 Battalion Fire Chiefs of the Firefighting Division.

FIRE INSPECTIONS

The budget you are considering is placing greater emphasis on Fire inspections being performed by units of the Firefighting Division. On paper these inspections are made to look thorough and complete, while in reality they are sloppy and haphazard. They remind us of the physical you take for a life insurance policy. The medical person comes to your home, asks you some questions, you give all the right answers and BAM! You've had a physical, when in reality you've had nothing more than an interview.

The D.C. City Council, under the leadership of Chairperson Rolark authorized fifteen new inspectors to carry out this most important function, yet as of this date, nine of these positions are vacant.

In addition, three fire inspectors, plus a supervisor are detailed to St. Elizabeth's Hospital. The funding for these positions has never been requested and as a result further reduces our field inspectional strength. We submit that there are approximately 55,000 buildings in the District of Columbia that require a yearly license to operate, and should thus receive a yearly inspection (ex. nursing homes, day care centers, hospitals etc.) It is our understanding that in FY 1989 only 11,671 of these inspections were completed.

To further complicate matters the construction boom throughout the city often requires on site visits by inspectors who are trained in a particular area of expertise, i.e. sprinklers, standpipes, electrical, etc. I believe you're beginning to see the entire picture. Now, according to this budget document these highly trained inspectors will be augmented by the Firefighting Division. Like the analogy of the Life Insurance Physical this looks good on paper, but in reality presents a false sense of security. The administration is misleading this committee, and our community when they tell you that Firefighting Units can, in addition to medical assistance responses, fire and automatic fire alarm responses, classes at the Fire Training Academy, daily station drills, etc. can also perform indepth fire inspections. That is a task that should be performed by highly trained individuals who, in addition to being skilled in looking for code violations, also have the legal authority to cite individuals who violate these codes. As the inspections continue to lag behind, it will only be a matter of time before we have a multi-death fire occurring in a building that should have been inspected and wasn't. Already we are beginning to see a climb in fire related death.

For Example:

FY 87 - 10 deaths
FY 88 - 17 deaths
FY 89 - 25 deatns

Local 36 believes there is a direct correlation between the lack of inspections and the rise in fire deaths and we feel that the management of the department has a responsibility to insure that additional Fire Inspectors are budgeted. We also are in full support of the Fire Prevention Division being legislated the full scope of Arson Investigation which would encompass the granting of Police powers, similar to the way all fire departments in the surrounding jurisdictions currently operate. The benefit to the city is the immediate freeing of uniformed Metropolitan Police Officers to perform police duties and eliminates the current system where two agencies investigate one fire. Local 36 believes this is a duplication of services and that with the demand for additional police officers by our community, this is a rational approach to a serious problem that can free MPD members for other duties.

Local 36 sincerely appreciates the assistance this sub-committee gives to the firefighters of the Nation's Capitol. Time and events bear witness to the fact that the actions taken by this committee, in conjunction with the City Council, have been responsible for the saving of many lives.

We are now prepared to answer any questions the sub-committee may wish to ask.

STATEMENT OF THOMAS N. TIPPETT

Mr. TIPPETT. All right, sir, I would. I am Thomas Tippett, president of Local 36 of the International Association of Fire Fighters, AFL-CIO. With me today is Raymond Sneed, our first vice president and chairman of our board of directors.

Again, we appreciate the opportunity to come before the committee. I would like to highlight three or four items in our testimony, if I could. Starting with an issue that I think Congressman Dixon has been familiar with for many years and been very helpful as has been the committee.

ONE-HOUR BREATHING APPARATUS

In 1985 at the urging of Local 36, this subcommittee, under your leadership, laid the ground work and insisted that the fire department provide our firefighters with the safety of entering a burning building, subway tunnel, or contaminated areas with a 1-hour breathing apparatus.

I would respectfully remind the subcommittee that this issue was not readily accepted by the administration of the fire department, and past budget transcripts will document that.

Again, we humbly say thank you because on March 7, 1990, a second alarm fire raged through Tech World, a high-rise structure at 9th and New York Avenue. First arriving units said the fire reminded them of scenes from the "Towering Inferno."

During the initial stages, firefighters attempted to work their way to the 10th floor fire scene. Two firefighters were separated from their engine company. They were located near a stair well by members of a heavy-duty rescue squad.

This committee was important in mandating that those heavy-duty rescue squads be placed back in service in approximately 1984, 1985. One firefighter had exhausted his air supply and went into full cardiac arrest. The other still had a small supply of air in his tank. They were removed to a safe area where CPC and mouth-to-mouth was begun. That firefighter is alive today, and I again respectfully submit that it is because of the efforts of this committee in seeing that the 1-hour masks were purchased, were implemented, were put on the apparatus, that that 17-year veteran is alive, and his family, his wife and children, have a husband and father. So again thank you very much on behalf of the firefighters for your efforts.

They do bear fruit. We do see the end result.

OVERTIME

On another issue, the overtime issue, which isn't a subject that traditionally comes up, I just want to remind the committee again that in 1981 the overtime budget was $544,000 for the fire department.

That was a time when we staffed our fire trucks with six firefighters instead of five, but we had full staffing. We were fully hiring. The overtime budget today is anywhere between $14 million and $19 million, depending on what day of the week the budget office is doing an analysis, and it is primarily laid to mismanagement and lack of hiring. And I believe both of those things are correctable.

AMBULANCE SERVICE DETERIORATING

The ambulance service in our opinion is worse than it was at this time last year. According to 1984 congressional hearing transcripts the response time was 8.8 minutes. Now, we are hearing that it was 9.9 minutes and increasing.

We see it on a day-to-day basis where we, Ray Sneed and I, work in the fire stations. We work the 24-hour shifts. We see what is going on. It is not better. It is worse.

We are convinced that the Mayor's new program is nothing but a sham. It is not going to improve the ambulance service. It is simply rewarding incompetence. It is changing the titles of people and proposing to spend $8 million a year more on not putting one more ambulance on the street.

We are very dissatisfied with the political decision that was made. We know that Mr. Yeldell and his committee did, I think, a fine job in going around the country and searching other departments and made a final recommendation. That final recommendation was totally ignored by the Mayor.

ADMINISTRATIVE ASSISTANTS TO BATTALION CHIEFS

The last issue I would like to address with the committee is the battalion fire chief administrative assistants.

They are an integral part of the fire service, but because of budget considerations and I believe the chairman asked the chief about the $200,000 that was to be cut from his budget, the department is proposing to cut those staff positions out. We would strongly urge the subcommittee to reject the requests found on page 1133 that would reduce the number of firefighters maintained, and that number is eight administrative assistant positions for the battalion chief.

They serve a vital purpose, not only administratively but on the fire ground. They are an integral part of our fire incident command system, and we need those people on the fire ground for our safety and the safety of the citizens. With that, I tried to highlight the main issues that we have addressed in our testimony.

Mr. Gallo. Thank you for your testimony. As I said, it will be made a part of the record. Can you give us a little update about the cadet program?

FIRE CADET PROGRAM

Mr. Tippett. Yes, sir; the cadet program is something that we as a labor organization pushed for strongly about 5 or 6 years ago and still support very strongly. However, it is not working as it was intended. It is a 2-year program intended to bring in youngsters who are in their senior year of high school, beginning of their senior year of high school into an exposure to the fire service so that after they graduate they will spend another year in the program actually in fire houses in contact with the various divisions in the fire service so that they can come in as full-fledged firefighters after 2 years.

It is not being administered the way it was intended. We just brought some kids in last month at the end of their senior year, which is, again, not the intent of the program. They do not take the written examination to become firefighters, as was intended by the law itself as posed by the City Council.

Some of the physical qualifications have been circumvented, so we think it needs to be tightened up and run according to the law basically. I think it is a very, very useful program, and we totally support the cadet program.

RECRUITMENT PROCESS AND ENTRANCE EXAMINATION

Mr. Gallo. The chairman and I questioned the police chief regarding the police department recruitment process and how to make the process more efficiently.

How closely does the fire department follow a national recruitment process?

Mr. Tippett. I heard the chief's testimony and, quite frankly, for our department I am embarrassed. We have given—our last entrance exam was given in September of last year. The physical agility part of it was completed 2 months ago. The final list was generated well over 1 month ago. We are roughly 130 people short now.

We have about 50 people who plan to retire between now and August. We are desperately in need of firefighters, yet our program is going nowhere. I have called the training deputy and the clinic to find out where our hiring process is.

It is nowhere. The training deputy has no plans for training these new recruits, and whereas the police department was able to bring people on board in a matter of days, if not weeks. We have been literally months and months and months, and we are no closer to bringing these people on board, and quite frankly that is what drives—one of the things that drives the overtime.

We need to be fully staffed. We have the applicants. We have 966 who have completed two phases of the process and are ringing our phones off the hook wanting to know "when are they going to hire me."

These kids need to—they are making job decisions. They are recruited by other jurisdictions, and we are doing nothing to bring them on. They should have been on last month, and as we sit here today there is no plan that I am aware of to bring them in for their physicals and to get them into the training academy. So it is really, I think, an embarrassment for us all.

Mr. Gallo. Chairman Dixon?

Mr. Dixon. In the interest of trying to not have conflict with some dialog, we were kind of prepared for your testimony, and Mr. Cavenagh, the director of the emergency ambulance service, is here. Mr. Tippett, it seems like you took a pretty hard shot at him.

Mr. Cavenagh, I invite you up to the table in case you would like to make any comments.

Mr. Tippett says that the new ambulance plan is a sham. The response time is greater. They need more ambulances. That is kind of contradictory to what your testimony here just a few weeks ago.

If you would like to respond in a friendly way to Mr. Tippett's remarks, you may do so at this time.

STATEMENT OF JOHN E. CAVENAGH

Mr. CAVENAGH. I agree with Mr. Tippett that we need more ambulances. There is no question about that. The demand has increased dramatically since 1984. The number of responses has increased dramatically since 1984, which in part accounts for the increased response time.

Specifically, to respond to his criticism of the realignment plan. I would like first to point out that this was a plan that was proposed by the union that represents the ambulance workers, Local 3721 at the American Federation of Government Employees. I can't speak for the union, but it is my belief that they feel that their proposal represents the best model for providing emergency medical care to the citizens and visitors in the District, and also the best career, opportunities representing its membership.

In terms of the annual operating costs, while it is true that the option the Mayor selected has a higher annual operating cost than the option initially recommended by the steering committee, the startup costs are dramatically different. It is $10 million for the option the Mayor selected.

It would have been $30 million for the option that was initially recommended and then ultimately rejected by the Mayor. That is all I have to say.

Mr. DIXON. And what about the response time issue?

Mr. CAVENAGH. The response time, as I explained before, is a function of resources, tactics, and behavior. We don't have the resources that we need to meet industry standards for response time.

What we can do is we can either add resources or we can alter the tactics. The Mayor's plan includes altered tactics—that is—a realignment of the fleet, from a mixed fleet, of basic life support units and advanced life support units to all advanced life support units. The fleet realignment is combined with firefighter response to all medical incidents, yielding a more efficient and more effective use of total fire department resources to meet the need for emergency medical care.

Mr. DIXON. But the response time is up to 9, 10 minutes?

Mr. CAVENAGH. It has been up to 9.9 minutes for the EAB units and 8.9 minutes for the firefighter units for the past 2 years. So the firefighter response time has not changed over the past 2 years, either.

INCREASE IN NUMBER OF CALLS FOR EMERGENCY AMBULANCE SERVICE

Mr. DIXON. To what do you attribute the increase in the number of calls?

Mr. CAVENAGH. That is a tough question. We are not sure why there is an increasing number of calls. It may be related to the rising violence that is related to drugs. It may be related to an increased awareness on the part of the public of the capabilities of the emergency medical care system. It may be related to the lack of primary medical care available to certain segments of the population such that they aren't able to receive routine medical care.

Their medical problems then get worse, and finally get to the point where they can no longer tolerate them, so they activate the emergency care system and use that as a substitute for the primary care system, so I think it is a variety of factors that contribute to a rising demand for emergency medical services.

Mr. **Dixon**. Mr. Gallo, I know you have to go to a 10:30 meeting, so if you have any questions——

Mr. **Gallo**. No; that is quite all right.

Mr. **Dixon**. Mr. Green?

Mr. **Green**. I have no questions.

Mr. **Dixon**. Also Deputy Chief James Gallagher and Mr. William McLaughlin, the vice president of the ambulance union, are both here. Do either of you have any response? It is not necessary, but there may be something in Mr. Tippett's testimony that you would like to address.

BUDGET REDUCTION FOR BATTALION CHIEF AIDES

Chief **Gallagher**. Just one thing to clarify so there wouldn't be any misunderstanding. Mr. Tippett mentioned $200,000 had been cut from the budget. To save $200,000 we cut some of the aides out. That is not what it costs to maintain these eight aides positions for an entire year. We were trying to temporarily save $200,000 when we reduced four of the positions in the month of June through October.

To fill the positions full time we would maintain those costs as full-time staff positions. It would have cost us about $2.2 million a year. It is eight work stations, and it takes 5.4 persons per work station, so it would cost us $2.2 million a year for full funding, and presently we have been working these eight positions with overtime at a rate of $1.6 million a year.

And in order to save some money in the budget this year, we reduced the numbers of people in that position. I just wanted to clarify the numbers on that. That is all.

OVERTIME VERSUS HIRING NEW RECRUITS

Mr. **Dixon**. Let me ask on another subject, Chief. Mr. Tippett says that you should have been hiring new recruits, and the legal problems as far as hiring have been worked out.

I guess there is a suggestion that it is easier, and cheaper to pay overtime. Is that the inference?

Chief **Gallagher**. We have a shortfall in funding when it comes to filling a position for the work station. If we fill that position 24 hours a day, 365 days a year with overtime, it is cheaper than the full-time position because of the pension liability costs.

We guesstimate it is $52,000 a year per position when you take into account all the benefits and pension liability, but to fill the position we would base it at $520 24 hour a day in overtime costs, times the number of days it comes out to less than the $52,000. They are just temporary solutions.

Eventually you have to fill them.

Mr. **Dixon**. What plans are you making?

Chief **Gallagher**. I just left the room to make a call while you were speaking to Mr. Cavenagh. I tried to get a lady at the District's Office of Personnel this morning on my way here. I have asked her to call me back here today.

Mr. DIXON. Sure. If you get it today would you put it in the record.

STATUS OF HIRING D.C. FIREFIGHTERS

Chief GALLAGHER. Mr. Tippett said all the letters have gone out to all qualified applicants. They handled this through a private contractor. They are to give us a list of the names, the 966 names. We have not received them yet. Our next step is background investigations and physicals, and the police department does the background investigation.

Of course, as you know, with their hiring process, they are overworked with their own background investigations.

[The information follows:]

966 CANDIDATES MAKE HIRING LIST FOR THE D.C. FIRE DEPARTMENT

Alter implementation of a comprehensive plan to recruit the city's first group of firefighters since 1984, the D.C. Office of Personnel recently compiled a list of 966 eligible candidates for the D.C. Fire Department.

In releasing this information, Calvin C. Tildon, director of personnel said, "The list of eligible reflects a well balanced representation of the District of Columbia." The hiring list includes 35 females; 614 blacks; 11 Hispanics; and 310 whites. A total of 499 candidates are District residents. The eligible candidates now must successfully complete a physical (medical) examination and background investigation.

The city's personnel office engaged in an extensive pretest training program to ensure that all qualified applicants had equal opportunity to become a D.C. firefighter. The training was designed to help applicants prepare for the physical capabilities and written exams. This pretest training was offered in all wards of the city. Over 1,500 applicants participated in the written training and 700 participated in the physical capabilities training.

As a result of the pretest training, Tildon feels that the city was successful in its efforts to increase the number of eligible minority and female candidates: Tildon went on to cite recent reports that outlined problems confronting New York City's ability to hire more minority firefighters. According to those reports, of the top third of eligible candidates to be hired from the N.Y. list, it is expected that only 2.1 percent will be black, 4.1 percent will be Hispanic, 0.3 percent will be Asian, and 0.1 percent will be women.

PROCESSING FIREFIGHTER CANDIDATES

The register is a complete listing of candidates who have passed the Firefighter's examination. The register will be printed in rank order and will include each passing candidate's social security number; name (last, first, middle initial); scaled score; residency preference points (if any); veterans preference points (if any); final score; and overall rank.

The register will be maintained at all times by the Bureau of Field Services (BFS), DCOP. BFS will also maintain candidate information such as the candidates' employment applications, residency preference forms, etc.

The selection certificate is a rank-ordered list of candidates sent to the D.C. Fire Department (DCFD) in response to a DCFD request to fill a certain number of vacancies. The DCFD will submit a request to SPO #3 for names to fill a certain number of vacancies. The SPO shall, in turn, request a selection certificate from BFS. The SPO shall indicate the specific number of candidates needed to fill the vacancies noted.

BFS will provide a selection certificate to SPO #3, along with copies of those candidates' employment applications and other relevant information. SPO #3 will then send the selection certificate and accompanying information to the DCFD and keep a copy for the SPO files. SPO #3 will be responsible for monitoring the processing of candidates to ensure candidates are processed in rank order.

Processing by the DCFD shall be in rank order as listed on the selection certificate. The DCFD Personnel Liaison Officer shall notify SPO #3 in writing of the status of each candidate once a request to hire is made. The status or disposition of all candidates on a selection certificate must be noted and updated each time the DCFD requests to hire one or more candidates from the selection certificate. The SPO will ensure that all candidates ranking above those selected for hire were contacted and processed in rank order and have been hired in rank order or noted as unsuitable or not interested with dates contacted and reasons/disposition noted by the DCFD. Should additional names to fill a certain number of vacancies be necessary, the DCFD should request additional names in writing to SPO #3. SPO #3 will then make the request to BFS.

Once a selection certificate has been exhausted, the request to hire, the selection certificate with final notations and disposition, and the candidates' relevant personnel information shall be sent to SPO #3. Information relevant to DCFD only, such as background information forms, etc., shall be maintained by DCFD and not forwarded to the SPO. In addition, information on those not eligible for hire after DCFD processing should be maintained by DCFD as well. SPO #3 shall provide a copy of the final notated selection certificate to BFS with a copy to the Test Research and Development Division (TRDD) for documentation purposes.

In summary, the responsibilities of each office are as follows:

DCOP, Bureau of Field Services (BFS).—Maintain register; maintain candidates' employment application and related information; send selection certificate to SPO #3, once requested; send candidates' employment application and related information to SPO #3 along with selection certificate.

DCOP, Servicing Personnel Office #3 (SPO #3).—Request selection certificate from BFS, once received from DCFD; forward selection certificate and related information to DCFD; monitor use of selection certificates to ensure rank-ordered Processing; forward copies of all status reports (periodic and final reports) to BFS; forward one copy of final notated selection certificate to TRDD; periodically review procedures, problems, etc., with DCFD's Personnel Liaison Officer; maintain contact with BFS regarding DCFD's concerns.

D.C. Fire Department.—Request selection certificate from SPO #3 to fill certain number of vacancies; process each candidate from selection certificate in rank order; provide written updates on status and disposition of all candidates (hires and non-hires) from selection certificates to SPO #3; provide requests to hire, related personnel information, and final selection certificates with disposition to SPO #3; maintain candidate information on non-hires or those ineligible after further processing.

Mr. DIXON. All right. Thank you very much, Mr. Tippett.

Anything else you would like to add?

FIREFIGHTER PROBLEMS CAUSED BY OVERTIME

Mr. TIPPETT. Maybe one more point on this overtime, Mr. Chairman.

The overtime does come to our people obviously, but it is a double-edged sword. Currently our annual leave is being restricted because of the overtime problem. A case in point is I needed to get off 2 weeks ago to go to one of my boy's lacrosse games. You cannot get leave, you cannot get off. Leave is restricted all summer because of the crunch, because of the critical shortage of manpower, so we need these new bodies on the job.

Not only that, our injuries are increasing because guys are being forced in many cases to continue to work overtime, and we can't continue this very long. Our workload has increased because of the ambulance crisis. We need new bodies on board, and I believe they could have and should have been on board long before now.

Mr. DIXON. All right. Thank you very much.

Mr. Cavenagh?

Mr. CAVENAGH. Mr. Chairman, if I may, Mr. William McLaughlin the vice president of Local 3721 of the American Federation of Government Employees, representing the ambulance bureau workers, is here. He has a very brief statement if that is OK with you.

Mr. DIXON. Certainly. Mr. McLaughlin, why don't you just come up.

STATEMENT OF WILLIAM MCLAUGHLIN

Mr. McLaughlin. Good morning.

Mr. Dixon. Good morning, Mr. McLaughlin.

Your union represents the ambulance drivers and technicians and personnel that work on——

Mr. McLaughlin. That is affirmative, EMT, paramedics, also apparatus and administrative and support staff. I want to briefly explain to you the sworn officer. We suggested it initially because the ambulance bureau in itself has grown to such proportion and the responsibility has grown to such proportion that it has needed a ranked structure. It needs to be made a full-uniformed service of the District government.

As it stands, it is not considered a support service, and the people there are professionals. They have to maintain certification. They have to maintain 72 hours of outside education every 2 years. They have to recertify.

It is not like in that position once you become, for instance, a firefighter, you are a firefighter. When you become a paramedic, you recertify as a paramedic. You take an exam every 2 years. This is something that continues on, and there is needed to be some type of ranking structure, some type of advancement structure for these people.

He has this problem with his staffing of the firefighting side. We have our problem maintaining qualified emergency medical personnel. It has a very high turnover rate. We like to give them something and give them a means of control of their profession. As it stands now, it is not, shall we say, status quo.

The sworn officer will give them the means to have quality assurance, whereas you will have a ranking structure with qualified people overseeing those subordinate to them, going on up the ladder.

You have a means of advancement. You have a means of inner pride within the agency. You have a means of attracting highly qualified personnel. No; it is not status quo. It is a big step up, a step that is too long coming, and it will make the service what it should be. It should be a complete uniformed service of qualified individuals controlling all the way down, and pretty much all I have to say is there are two main points that has been very hard to get people to accept in this, emergency medical service is not really a service.

It is a necessity. It is not a job. It is a profession, and the difference in this is life and death, and we have to treat it as that, and that is pretty much all I have to say on that subject.

Mr. Dixon. Is it a proposal that is being considered or one that your union is offering up or——

EFFECTIVE DATE OF NEW AMBULANCE PROPOSAL

Mr. McLaughlin. The proposal has been considered. It has been approved. It is being worked out as we speak. It is due to go into effect October 1 of this year. That is when it will start. As I said, this will increase our quality assurance, which will increase our units.

We will increase our advanced life support measures, everything will go up with this proposal.

Mr. DIXON. Thank you, gentlemen, very much.

PUBLIC SCHOOLS

STATEMENT OF WILLIAM H. SIMONS, PRESIDENT, WASHINGTON TEACHERS' UNION

Mr. DIXON. Next we have Gary Hankins with the Fraternal Order of Police. He is not here.

Then next we have William H. Simons, who is president of the Washington Teachers' Union. Good morning, Bill.

Mr. SIMONS. Good morning, Mr. Chairman.

Mr. DIXON. I notice you have a short statement. If you would like to read it or summarize it, we would be pleased to hear it at this time.

Mr. SIMONS. Yes; I am William Simons, president of the Washington Teachers' Union. I am here this morning to make a brief statement concerning the budget for the Board of Education for fiscal year 1991 which is before you as a part of the budget for the District of Columbia.

The union recognizes that this is perhaps the least desired responsibility which you exercise. Certainly this task would become nonexistent if the residents of the District of Columbia were afforded the quality of citizenship as possessed by the residents of the 50 States, but until that day arrives, it will be necessary to make an annual appearance to seek approval for the budgetary requests for the District of Columbia.

It is unnecessary to burden you with a presentation of statistics and analysis as that material has been provided you from a variety of sources. Nor is it necessary to delve into the snafu involving the enrollment of students in the D.C. public schools. As you are aware, the budget for the D.C. public schools for fiscal year 1991 is flawed.

In its wisdom and conscientious effort to present a balanced budget, the moneys which would have been designated for salary increases and for some of the much needed capital improvements were removed by the Council of the District of Columbia.

This money should be restored in order to insure sound planning. The union is in total agreement with those who are advocating an increase in the Federal payment to the District of Columbia. If one traced the history of the Federal payment, he would find that it has declined considerably over the years.

From 1835 to 1925 the payment level ranged from 40 to 50 percent of the city's budget. Over the years it has fluctuated until now the recommendation by the President for fiscal year 1991 of $430.5 million represents approximately 13 percent of the District's budget for next year, the lowest ratio in years.

There is a nationwide misunderstanding of the Federal payment to the District of Columbia. Even the President of the United States made an erroneous statement when he vetoed the supplemental budget, stating that all of the funds for the District of Columbia came from the Federal Government.

The Federal payment is supposed to compensate for the taxes lost because of the material presence and some of the services provided by the city for the Federal Government. If the total amount of revenues lost because the Federal presence were computed properly, it would reveal an amount of nearly $1.5 billion.

I might add, an article in the paper this morning says that there has been a bill introduced that is going to exempt another piece of property from District taxation. A classic example of the additional service provided by the city to the Federal Government can be seen when a foreign dignitary visits our city.

The office building in which the union is housed is on the corner of 15th and L Streets Northwest. My office provides a clear view of the Madison Hotel, located at 15th and M Streets. In the past 2 months, with the visits of Soviet President Mikhail Gorbachev and Mr. Nelson Mandela, it is not difficult to calculate the additional costs to the police department.

The time for the adoption of a formula-based Federal payment that would provide a predictable system of budget planning and preparation is now. The union would strongly urge that the Federal payment for fiscal year 1991 be increased and the respective subcommittees give serious consideration to establishing a uniform Federal payment for the District of Columbia.

Mr. DIXON. Thank you very much for your testimony this morning. I noted that Mr. Mandela hardly got out of New York before the police chief there was talking about how much his visit cost—maybe the Feds should reimburse him. He is on his way to Los Angeles from Atlanta. I am sure the Mayor and others will be calling the Los Angeles congressional delegation saying, well, if New York gets some money, maybe we should, and you have raised the issue of Washington getting some Federal money.

It is a very difficult situation. Obviously I support your concept of a formula-based Federal payment.

ACCOUNTABILITY OF TEACHERS

One of the issues that comes up, and you seem to support the COPE report on education, is that the teachers in the classrooms should be more accountable, whatever that means.

In other words, there is a feeling by some who testified here that there is no accountability in the education system. Can you comment on that at all?

Mr. SIMONS. Well, there is accountability. There is an elaborate evaluation system for teachers which occurs each year. Now, if the system is not implemented properly, that cannot be blamed on the union, but the system is there. Teachers at the beginning of a year, after becoming familiar with his or her classes, puts together a plan of action for those classes.

This is reviewed by the principal of the school. The document is signed off by both parties, and at the end of the year the teacher has to show what has been accomplished. The teacher states the objectives, and she has to demonstrate that these objectives have been achieved, so the system is there.

Now, whether or not it is being operated properly in every instance, that is debatable. We do have that human factor that you have in any system.

Mr. DIXON. Thank you very much for your testimony today.

Mr. SIMONS. Thank you.

[The statement follows:]

STATEMENT OF WILLIAM H. SIMONS

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ST. ELIZABETHS HOSPITAL FIRE DEPARTMENT

STATEMENT OF DAVID RUSSELL

ACCOMPANIED BY:

TIM DARRELL POSEY

JAMES E. GALLAGHER, DEPUTY CHIEF, D.C. FIRE DEPARTMENT

ROBERT A. WASHINGTON, PH.D., COMMISSIONER ON MENTAL HEALTH, D.C. DEPARTMENT OF HUMAN SERVICES

Mr. DIXON. Next we have David Russell who wants to testify about the firefighters at St. Elizabeths Hospital. Mr. Russell? I understand you have with you Mark Trowbridge and Jay Bieler.

Mr. RUSSELL. Mr. Trowbridge was taken ill last evening. He won't be with us this morning.

Mr. DIXON. Are you Bieler?

Mr. POSEY. Tim Darrell Posey.

Mr. RUSSELL. We have a prepared statement that we would like entered into with the record.

Mr. DIXON. Since I am the only one here, I am generally familiar with the situation. It is my understanding that a couple of years ago the District took over St. Elizabeths Hospital after long negotiations, and one of the issues was what was to occur with the personnel there.

In your particular case it is the firefighters who were at the time Federal employees, and it is the desire of the firefighters there to join the District fire department. One issue is would you be subject to transfer? Do you have the same training? Last year's testimony was that you would like to join that system, but have permanent assignments at St. Elizabeths Hospital.

Mr. RUSSELL. That certainly wasn't our desire. Our desire was to be fully integrated and to receive, in fact, all of the benefits that are presently afforded D.C. firefighters.

Mr. DIXON. That would require some additional training?

Mr. RUSSELL. On the issue of training, with the exception of myself, because I was terminated last year, largely I think due to the activities that I have taken on behalf of the firefighters, representing them before this committee, numerous committees with the District of Columbia and so forth, that issue, in fact, will hopefully be resolved as a result of some litigation.

But with regard to the issue of training, as I said, all of the individuals, with the exception of myself, were, in fact, put through the D.C. Fire Department Training Academy, and received at that time the same curriculum, if you will, that D.C. firefighter recruits and so forth received and all satisfied were able to satisfy the requirements of that course.

It is interesting in listening to the testimony of both Mr. Tippett with the International Fire Fighters Union and also with Mr. Cavenagh that each talked about lack of resources, talked about the need for additional equipment, manning and so forth.

By the statistics that are offered by the D.C. fire department, last year emergency responses throughout the wards in the District of Columbia were up 18 to 26 percent. In ward 8, of which the St. Elizabeths Hospital fire department complex is located, total responses were up over 54 percent, and yet our concern is that you have a resource in there, and no one has, in fact, used it.

If you suffered a heart attack beyond the gates, our units would not be dispatched. The big concern over delays and so forth, ambulances an so forth in that area, certainly in that part of Southeast it is totally unacceptable.

Mr. DIXON. If a firefighter, at St. Elizabeths Hospital, for example, was accepted by to the D.C. fire department, they would get no credit for their past service at St. Elizabeths; is that correct?

Mr. RUSSELL. That is my understanding.

Mr. **Posey**. It would be added to what they have to do—if you cut 25 years into the D.C. fire department, then your 5 years at St. Elizabeths would be added on at the end.

Mr. **Russell**. At the time of retirement.

It is interesting, too, during the early discussions, if you will, with Dr. Washington, members of the Mayor's cabinet, D.C. fire chief, then T.R. Coleman and so forth, the proposal that they had submitted to us was to provide those members of our department—there were only 18 people that could meet the age requirement, 29 years of age or younger.

Of those individuals could pass the written test, the practical examination, physicals and so forth, and then we were told if jobs were available, we would both be hired. When we asked about those of us that were beyond 29 years of age, we were told that we would either take positions with the emergency ambulance bureau, driving the ambulances, or communications, and that was totally unacceptable.

We had guys that had 12, 13 years of service, and Public Law 621 that mandated this transition, if you will, indicated that as employees you will be provided maximum consideration. Anything but maximum consideration you know, unacceptable, yet that is what we have been forced for 2 years.

As you know, Mr. Chairman, this committee has urged the District for 2 consecutive years to fully integrate. We are no closer to that today than we were October 1, 1987. While our people were provided an opportunity to go through the D.C. training since that time, training is abut nonexistent. That is not a comprehensive training program.

It is an ongoing thing, as is understood and adhered to by the D.C. firefighters, the fire department, EAB and so forth, the equipment. We could go on and on and on. This is an absolute mess. If we, in fact, leave this situation up to Dr. Washington and some of the other powers that be, if you will, in the District of Columbia, this situation is not going to get any better, I assure you.

Mr. **Dixon**. Sir, would you identity yourself for the record.

Mr. **Posey**. Darrell Posey from Fire Fighter EMT at the hospital.

Mr. **Dixon**. At St. Elizabeths?

Mr. **Posey**. Right.

Mr. **Dixon**. So nothing has happened since last year one way or the other?

Mr. **Posey**. Training has been completed, but other than that, nothing.

Mr. **Dixon**. What do you mean the training?

Mr. **Posey**. We have received the D.C. Firefighters Training Program, and after that, that is it. No further progress of instituting us into the D.C. fire department has been accomplished. Incidentally when we went to the training program, the people there at the hospital, I guess Dr. Washington told us that we would receive a QSI, which is quality step increase, for completing this training, sort of an incentive thing.

Well, to date that has never been seen. We were told at our graduation ceremony we would receive this. Well, we received a certificate that wasn't even what the regular D.C. firefighters receive when they go through the training program.

PREPARED STATEMENT

You should find a copy on Mr. Trowbridge's statement of the certificate that we did receive.

Mr. DIXON. Well, his statement will be submitted for the record.

[The statement follows:]

STATEMENT OF MARK TROWBRIDGE

This will be the third year that firefighters from Saint Elizabeths Hospital have sat in front of this committee to testify how we are being treated and asking why the D.C. Government is getting away with it. To this date from the take over the firefighters have worked a 56 hour week or a 112 hour pay period, however our pay stubs reflect 80 hours a pay period. We along with payroll cannot figure how we are paid, our FSLA pay or our leave. At this time we are being audited, we have been told to expect to loose our 15 percent premium pay and possibly our FSLA pay. All of our firefighters have completed the mandatory D.C. Fire Department training course, we were promised a quality step increase for those who pass the course. Yet we have failed to see this nor been integrated into the D.C. fire department. This is the only way that our problems can be resolved. I don't believe that this will be accomplished with out your help. As of October 1, 1990, the DCFD will regain control of the ambulance division. There will be equality between the firefighters and ambulance personnel as in pay and rank, why them and not us. If this committee will take the part of a mediator, I believe that all of the problems will be resolved and our department will be integrated into the D.C. Fire Department. We have been told by Commission of Mental Health officials that if we remain under their control that our jobs will be abolished as of October 1, 1991, when the D.C. Government will be in full control of this hospital.

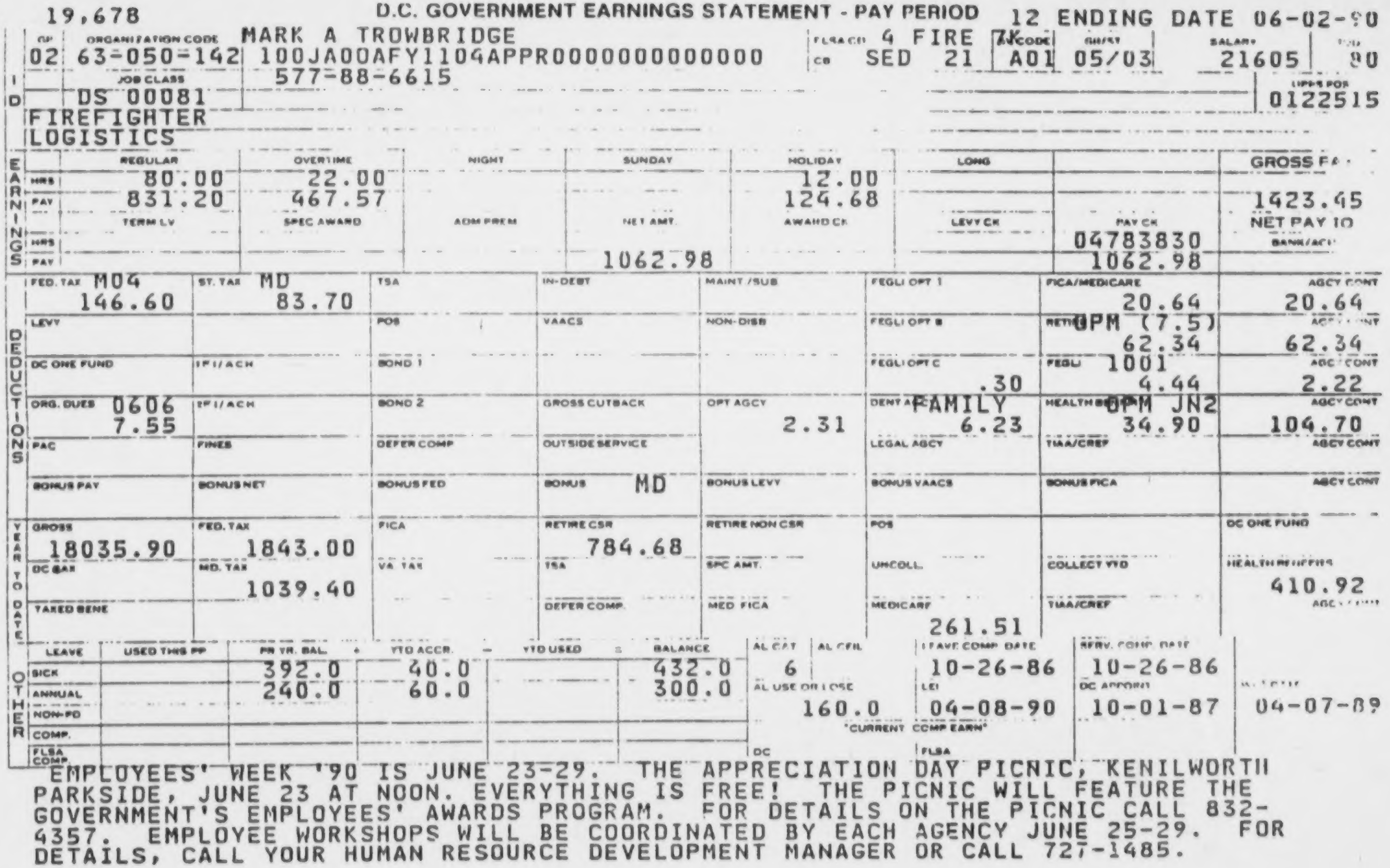
Name	Annual balance 72	Annual balance 56	Annual balance 40	Sick balance 72	Sick balance 56	Sick balance 40
Bernard Phipps	229	178	127	3	−30	
Charles Ball	418	325	232	1,814	1,411	1,008
Darrell Posey	290	226	161	210	163	117
Edward Mothershead	349	271	194	310	247	177
Jay Bieler	254	198	141	372	289	207
John Reamy	403	313	224	2,401	1,867	1,334
John Thornton	131	102	73	150	117	83
John Waters	65	51	36	58	45	32
Joseph Fusco	552	429	307	1,779	1,384	988
Lawrence Connelly	461	359	256	220	171	122
Mark Trowbridge	269	221	173	300	233	167
Paul Liverpool	475	369	264	1,754	1,364	974
Randy O'Sullivan	85	66	47	−41	−32	−23
——— Huntt	483	376	269	183	142	101

[From the Washington Post, Tues., Jan. 2, 1990]

NONE INJURED IN 2-ALARM BLAZE AT ST. ELIZABETHS HOSPITAL

A two-alarm fire yesterday at a St. Elizabeths Hospital building in Southeast Washington forced authorities to evacuate more than 100 staff members and patients, officials said. No injuries were reported.

Battalion Chief Everett A. Greene said officials believe the fire was set by a patient. Several mattresses and pieces of furniture were on fire in the building, where people with serious mental illnesses are treated on an in-patient basis, spokesman Walter Hill said.



19,678 D.C. GOVERNMENT EARNINGS STATEMENT - PAY PERIOD 12 ENDING DATE 06-02-90

GP	ORGANIZATION CODE		FLSA CD		CODE	GR/ST	SALARY	
02	63-050-142	MARK A TROWBRIDGE 100JA00AFY1104APPR0000000000000 577-88-6615	4 FIRE 7K CB SED 21		A01	05/03	21605	80

JOB CLASS DS 00081

FIREFIGHTER

LOGISTICS

UPPS POS 0122515

EARNINGS

	REGULAR	OVERTIME	NIGHT	SUNDAY	HOLIDAY	LONG		GROSS PA
HRS	80.00	22.00			12.00			
PAY	831.20	467.57			124.68			1423.45
	TERM LV	SPEC AWARD	ADM PREM	NET AMT.	AWARD CK	LEVY CK	PAY CK	NET PAY TO BANK/ACCT
HRS							04783830	
PAY				1062.98			1062.98	

DEDUCTIONS

FED. TAX M04 146.60	ST. TAX MD 83.70	TSA	IN-DEBT	MAINT /SUB	FEGLI OPT 1	FICA/MEDICARE 20.64	AGCY CONT 20.64
LEVY		POS	VAACS	NON-DISB	FEGLI OPT B	RETI OPM (7.5) 62.34	AGCY CONT 62.34
DC ONE FUND	IFI/ACH	BOND 1			FEGLI OPT C .30	FEGLI 1001 4.44	AGCY CONT 2.22
ORG. DUES 0606 7.55	IFI/ACH	BOND 2	GROSS CUTBACK	OPT AGCY 2.31	DENT A FAMILY 6.23	HEALTH B OPM JN2 34.90	AGCY CONT 104.70
PAC	FINES	DEFER COMP	OUTSIDE SERVICE		LEGAL AGCY	TIAA/CREF	AGCY CONT
BONUS PAY	BONUS NET	BONUS FED	BONUS MD	BONUS LEVY	BONUS VAACS	BONUS FICA	AGCY CONT

YEAR TO DATE

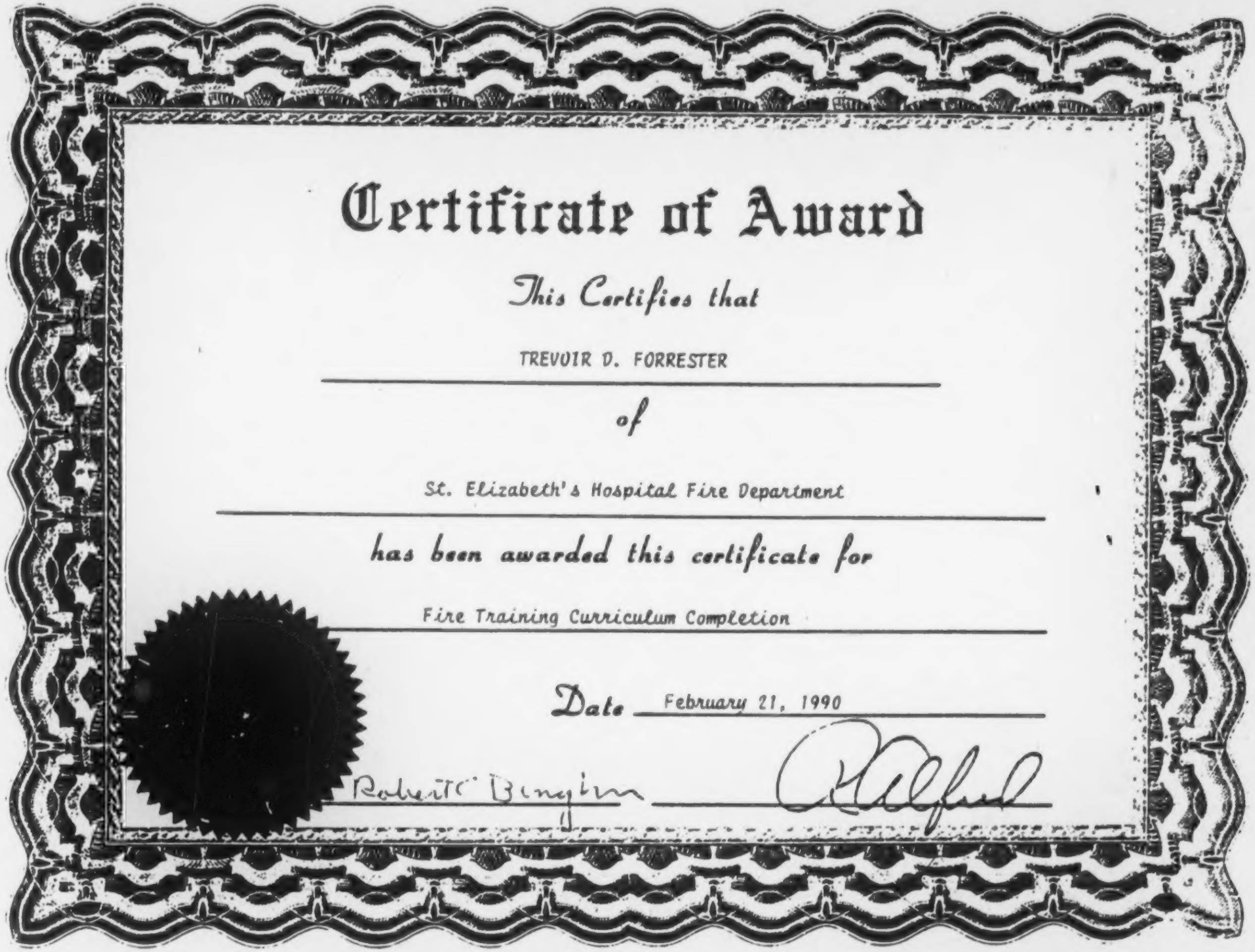
GROSS 18035.90	FED. TAX 1843.00	FICA	RETIRE CSR 784.68	RETIRE NON CSR	POS		DC ONE FUND
DC TAX	MD. TAX 1039.40	VA. TAX	TSA	SPC AMT.	UNCOLL.	COLLECT YTD	HEALTH BENEFITS 410.92
TAXED BENE			DEFER COMP.	MED FICA	MEDICARE 261.51	TIAA/CREF	AGC

OTHER

LEAVE	USED THIS PP	PR YR. BAL. +	YTD ACCR. −	YTD USED =	BALANCE
SICK		392.0	40.0		432.0
ANNUAL		240.0	60.0		300.0
NON-PD					
COMP.					
FLSA COMP.					

AL CAT	AL CEIL	LEAVE COMP DATE	SERV. COMP. DATE	
6		10-26-86	10-26-86	
AL USE OR LOSE		LEI	DC APPOINT	[illegible]
160.0		04-08-90	10-01-87	04-07-89
"CURRENT COMP EARN"				
DC		FLSA		

EMPLOYEES' WEEK '90 IS JUNE 23-29. THE APPRECIATION DAY PICNIC, KENILWORTH PARKSIDE, JUNE 23 AT NOON. EVERYTHING IS FREE! THE PICNIC WILL FEATURE THE GOVERNMENT'S EMPLOYEES' AWARDS PROGRAM. FOR DETAILS ON THE PICNIC CALL 832-4357. EMPLOYEE WORKSHOPS WILL BE COORDINATED BY EACH AGENCY JUNE 25-29. FOR DETAILS, CALL YOUR HUMAN RESOURCE DEVELOPMENT MANAGER OR CALL 727-1485.



Certificate of Award

This Certifies that

TREVOIR D. FORRESTER

of

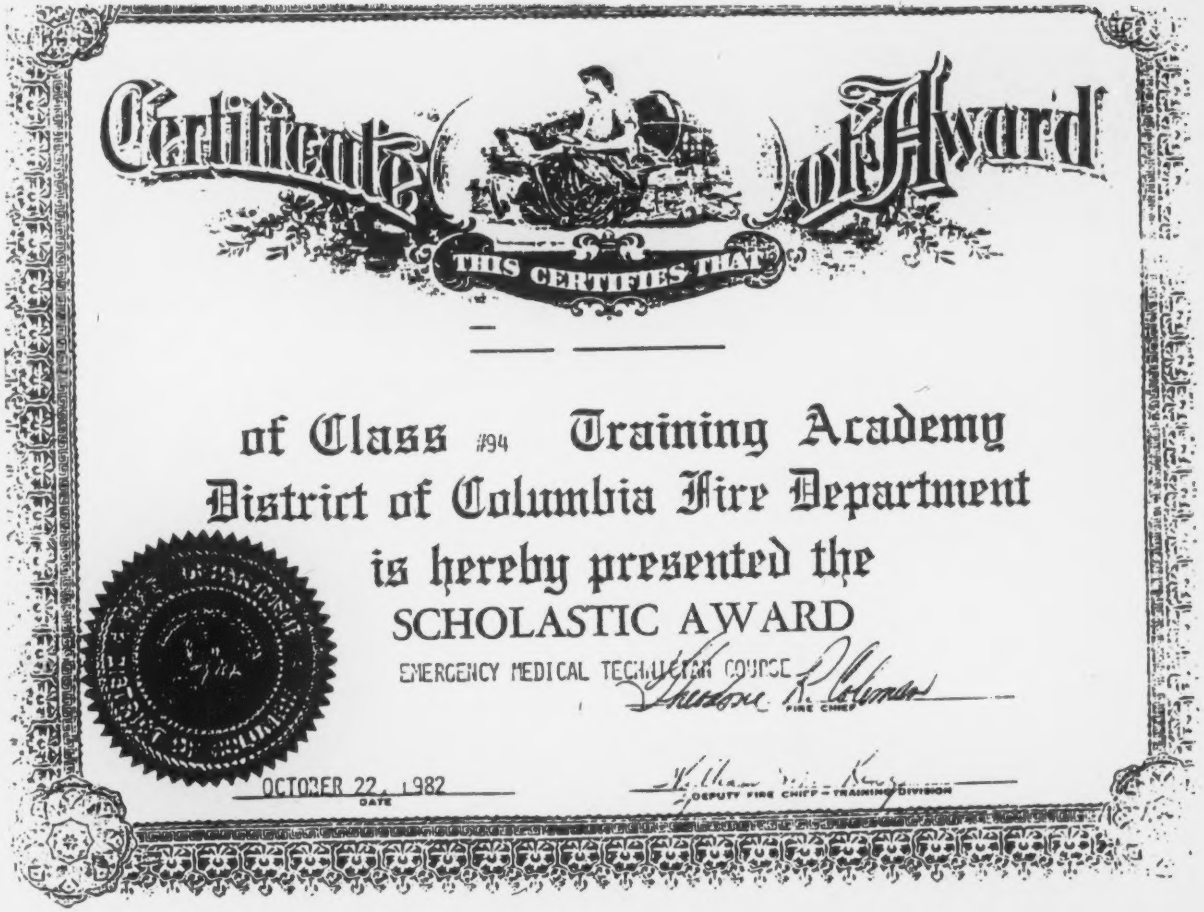
St. Elizabeth's Hospital Fire Department

has been awarded this certificate for

Fire Training Curriculum Completion

Date February 21, 1990

Robert C Bingham



Certificate of Award

THIS CERTIFIES THAT

of Class #94 Training Academy
District of Columbia Fire Department
is hereby presented the
SCHOLASTIC AWARD
EMERGENCY MEDICAL TECHNICIAN COURSE

Theodore R. Coleman
FIRE CHIEF

OCTOBER 22, 1982
DATE

DEPUTY FIRE CHIEF – TRAINING DIVISION

Mr. Dixon. Dr. Washington is here, and Deputy Fire Chief Gallagher is here, so I would invite them to the table. Chief, as I understand it, the firefighters at St. Elizabeths Hospital want to get into the D.C. fire department. I realize there are some financial and training implications. What are the problems?

Chief Gallagher. Well, Chairman Dixon——

Mr. Dixon. From your point of view.

STATEMENT OF DEPUTY CHIEF JAMES E. GALLAGHER

Chief Gallagher. I can't give you a complete answer on the problems. I wasn't involved in this in the beginning. They said there was quite a bit of problem with the pension liability, the age, different pension funds. But I do want to make one point that was made here, the 54-percent increase in responses in ward 8, which is where St. E's fire department is located, and that they don't go beyond the gate.

We had that set up when the St. Elizabeths Hospital fire department was within our fire department for about a year under our operation. They did not go outside the gate. It is extremely important that St. E's fire department at that station remain on those grounds.

Those grounds that are very large. The type of persons that live on the grounds, the St. E's firefighters generally carry rings of keys that are probably 5 inches wide, so it is extremely important they be on those grounds when the fire call comes in.

Mr. Dixon. Notwithstanding fires in the general designated District?

Chief Gallagher. A fire across the street, of course, if someone is hanging out of an automobile, I figure they would go out on the street.

Mr. Dixon. You are saying they should not be in general service. They should be specific to that area.

Chief Gallagher. That was my opinion. Just as we have fire departments at Bolling Air Force Base, and the Naval Research Lab, and they stay on their grounds as they do at Walter Reed and the Navy Yard, for their specific purposes.

Mr. Dixon. Dr. Washington?

STATEMENT OF ROBERT A. WASHINGTON

Dr. Washington. Well, there are several responses. Obviously, this is a very complex issue, and it is difficult to simplify in a few minutes, but let me start with the law. Public Law 98-621 says that no one as a result of the transfer would lose benefits, salary, and benefits, and so let's state for the record that these gentlemen have not lost any salary or benefits as a result of the transfer.

Second——

Mr. Dixon. Well, this gentleman is not employed. I would think he would probably think different, but that has nothing to do with it.

Dr. Washington. Well, that is a matter that is in litigation and I don't think it would be appropriate to discuss here.

Mr. Dixon. Right. I agree.

Dr. **Washington**. Second, the reason they have not become D.C. firefighters is because of regulations of the D.C. fire department which it chooses not to set aside for obvious reasons. Some of them as has been pointed out, don't meet the age requirement.

The others are welcome to take the exam and if they pass the exam to be considered like anyone else, but there is nothing——

Mr. **Dixon**. Are there other regulations because the age one, to me—I am not arguing with you, Doctor—seems very cosmetic. I mean, none of the firefighters in the D.C. fire department would meet the age requirement at the present time, either.

It so happens they are on board. It doesn't relate to their ability to perform the task, I would say.

Mr. **Posey**. If I may say something, Mr. Dixon. You asked, and the answer is, no, right now. The chief wants to say something.

REGULATIONS CONCERNING TRANSFERS TO D.C. FIRE DEPARTMENT

Chief **Gallagher**. The other problems relate to this, Chairman Dixon.

Mr. **Dixon**. Would you agree on that one? You see that one has come up in the last 2 years.

Chief **Gallagher**. An example to that problem, we don't have a problem with a fellow being possibly a firefighter if he is 35 years old and he is physically fit, and he may have had 10 or 15 years service in some other fire department, but now where do we grandfather him in with his chance for advancement?

We have regulations that say you have to be a fire fighter for 5 years before you take the sergeant's test, and you have to be a sergeant so long to be a lieutenant.

If we grandfather lieutenants in or captains in, what do we now have to provide for them in their next career ladder and how does that affect our 50, 60, 70, 80 different people that are eligible?

There were problems that just appeared that were unworkable at the time.

Mr. **Dixon**. Right. I understand that better now; better than just saying the age requirement.

Mr. **Gallo**. Age caused problems besides physical capability?

Mr. **Dixon**. What are some of the others, Doctor?

TRAINING OF ST. ELIZABETHS FIREFIGHTERS

Dr. **Washington**. Finally, I would like to say that the training that was provided is not the same training that is received by the D.C. fire department. It is a part of that training to ensure that these gentlemen are able to function on St. Elizabeths campus.

It is not the comprehensive training that is received by the D.C. fire department. Then let me say this: It has been a struggle simply to maintain this fire unit on the St. Elizabeths campus. D.C. firefighting responsibility belongs to the D.C. fire department.

It has a unit that services the area in which St. Elizabeths exists, and indeed argues that that unit can adequately perform for St. Elizabeths Hospital. We have been able to convince them that because of the nature of the client population and the complications associated with the grounds, that it is in our interest to maintain a fire unit which we pay for. The current fire unit on the grounds of

St. Elizabeths is paid for by the Commission on Mental Health Services, so as to add an added protection for the residents at St. Elizabeths.

Technically speaking, that unit could be done away with and the responsibility would lie with the D.C. fire department that services that area. There is no regulatory reason to continue it.

Mr. **Posey**. On the training issue, when I was in training school we trained right along side with the class 310, which is a D.C.—a recruit class. So I believe we received the same training as any other D.C. firefighters would have.

Mr. **Dixon**. I don't want to get into a debate, but, Chief, it was the District's fire department that provided the training.

I guess it was the desire not to provide the same training. I mean, that is calculated so when Dr. Washington says, well, they didn't receive the same training, that is something that is not within the firefighters' control. It is within the fire department's or the administration's control, so what about that?

In other words, the District didn't want them to receive the same training.

Chief **Gallagher**. No; I think what we did, we provided them the training that we thought was necessary at the time.

Mr. **Dixon**. But something short of giving them a step up so they could say that they have received the same training, obviously.

Chief **Gallagher**. They may not have received every hour by hour complete course.

Mr. **Dixon**. But now it is used as one of the arguments why they cannot integrate into the system?

Dr. **Washington**. I wasn't using it as an argument. I was just clarifying that.

Mr. **Dixon**. See, I thought you were saying one is age, two, they did receive some training, but not the same training; three——

Chief **Gallagher**. No; we never used that argument. I think what they are trying to point out is that since they received the same training, they felt they were eligible.

Mr. **Russell**. Well, that is interesting because training has always been an issue. It is interesting to know, too, that up until a few months before my termination I was taking courses at UDC in an effort to get the fire science degree.

Mr. **Dixon**. You were doing that on your own?

Mr. **Russell**. No; I was doing that through the fire department because that same opportunity is afforded all members of the D.C. fire department and so forth. It is interesting to note that I was prevented, in fact, from enrolling, which is not surprising because we have been involved in a lot of things.

Mr. **Dixon**. We have to go vote. I am sure Mr. Gallo has some questions. But Dr. Washington, is this a dead issue that is continually revived at this level because there is no one else to go to at the City Council or in the fire department and the people at the site aren't satisfied so they raise it every year at these hearings?

That is my perception of this issue.

DISTRICT'S DECISION ON ST. ELIZABETHS FIRE UNIT

Dr. **Washington**. It is a dead issue. It has been resolved. The city administrator has determined that the unit will continue as a civilian unit under the supervision of the Commission on Mental Services, that it will not be a D.C. fire department unit, and that these gentlemen cannot be grandfathered in because of the regulations of the D.C. fire department.

It is a dead issue.

Mr. **Gallo**. I have no further questions.

Mr. **Russell**. One final statement. We constantly hear about the qualifications, minimum standards and all of that, yet in the testimony of Mr. Tippett earlier we learned that the cadets don't adhere to the rules and regulations, and it is interesting to note that when you talk about 18 people that happen to be predominantly white, all of a sudden we are getting hit with rules and regulations and age and all of that. But you talk about——

Mr. **Dixon**. You mean 18 people in the St. Elizabeths fire unit?

Mr. **Russell**. Eighteen firemen. That is the corps of St. Elizabeths Hospital fire department.

Mr. **Dixon**. Well, let me suggest to you that I think you have a right to pursue this, but this is the wrong forum for you to pursue it in. This is something where the District government has made a policy decision. I don't think Congress is interested in overturning the District government on this and certainly I don't think this committee is.

If you want to pursue it, I would pursue it at a different level, at the City Council or at some other level. I don't know what success you are going to have, but this is not the forum to revive an issue that has been resolved, probably not to everybody's sake, but at least it has been resolved.

Obviously, you are not satisfied with the results, but it sounds like it has been resolved, although not to your satisfaction.

Mr. **Russell**. No, sir; I don't think anyone should ever be satisfied with someone else's right to discriminate against someone else.

As long as that exists, we are going to pursue it.

Mr. **Dixon**. Right. I am just saying that this is not the forum where it should be pursued.

PREPARED STATEMENT

Mr. **Russell**. Well, this committee has urged the District, at least in the two previous years to fully integrate. Now, I would hope that that is worth something, and I would hope that this committee would see fit to do that at least at a minimum a third time. Three is a charm.

Mr. **Dixon**. We will stand in recess for about 2 minutes.

Thank you, Dr. Washington. And thank you, Chief Gallagher. Dr. Washington, I think there is another issue so if you could stay a few more minutes, I would appreciate it.

[A brief recess was taken.]

[The statement follows:]

STATEMENT OF DAVID RUSSELL

Mr. Chairman and respected members of this Committee I wish I could stand before you today and report that the problems experienced by the firefighters of the St. Elizabeth's Hospital Fire Department have been resolved. Instead, it is with great disappointment that I share with you a truthful analogy of where we are today, nearly 3 years after the transition to the District government and after 2 Congressional Reports from this Committee urging the District to fully integrate our personnel into the District fire department.

Today, we are no closer to full integration than we were 2 years ago. The problems we shared with you last year regarding the condition of equipment, lack of a comprehensive training program, reduced manning levels, our pay structure and promotional limitations still exist. The ambulance service our personnel once provided the patients and staff of SEH and the surrounding Southeast community is no longer available. Reductions in manpower have resulted in the termination of this vital service since August 1989. At the present time DC ambulance provide this service upon request. It should be noted that since August there have been numerous problems resulting from excessive delays from DC units. In one such incident a patient suffering congestive heart failure died 25 minutes before a DC ambulance arrived.

On October 25, 1989, I was terminated. Prior to receiving notice of termination which was signed by Dr. Robert Washington, Commissioner, SEH, I was involved in attempting to resolve problems which greatly affected our careers, but more importantly the level of protection we were permitted to provide SEH and the residents just outside our gates. I had met with many of your staffers and testified before this very Committee. While it is true that I met with DC Council Members: testified on 2 occasions before the DC Oversight Committee; participated in several meetings with Dr. Washington, DCFD Assistant Chief Alfred and Carol Thompson, City Administrator, I did so in each case representing SEH firefighters as we sought to arrive at an acceptable solution to our intolerable situation.

Upon learning of the District's plan to terminate me, Congressman Hoyer sent a letter dated October 18, 1989, to Mayor Barry requesting that my situation be reevaluated. He pointed out that I was a 2-year veteran at SEH and that all contacts (listed above) involved the unresolved issue of transferring SEH firefighters into the District fire department. He further stated that my planned termination gave the appearance of retaliation and may be the result of discrimination. (See attached letter)

On January 30, 1990, Carol Thompson responded for Mayor Barry stating, in essence, this was a personnel issue and that I did not apply in time for a firefighter position. This, of course, is incorrect. (See attached letter)

In conclusion, Mr. Chairman, we are now approaching 3 long years since the transition of which I have been unemployed for the last 8 months. The District government under the present administration has clearly demonstrated that they have no intention of fully integrating SEH firefighters, who are predominantly white, into the District fire department despite your Committee urging them to do so for the last 2 years. We, therefore, respectfully urge this Committee to consider Congressional action mandating full integration which is the only fair solution to the issues before you.

Thank you for allowing me to testify today.

LETTERS FROM CONGRESSMAN STENY HOYER

October 18, 1989

Mr. David Russell
11 Prospect Avenue
Indian Head Maryland 20640

Dear Mr. Russell,

Thank you for contacting my office regarding St. Elizabeth's Hospital and your scheduled termination.

As you know, my staff has had several conversations with the District regarding your position at St. Elizabeth's. The enclosed letter to Mayor Barry urges the DIstrict to re-evaluate your situation, and it is my hope that it will have a positive impact. You have been a valuable source of information to my office and I appreciate your willingness to share your concerns with me about the firefighters situation at St. Elizabeth's.

Again, thanking you for contacting me and best wishes to you and your family as you face this difficult situation.

With kindest regards, I am

Sincerely yours,

STENY H. HOYER

October 18, 1989

The Hon. Marion Barry, Jr., Mayor
The District Of Columbia
District Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mr. Mayor,

I am writing in reference to Firefighter Dave Russell, an employee of the District of Columbia stationed at St. Elizabeth's hospital who was recently informed that he will be terminated as a temporary employee.

It has come to my attention that Mr. Russell, employed at St. Elizabeth's for two years, is scheduled to be terminated as of October 25. As you may recall, Mr. Russell was also scheduled for termination last year, but that decision was recinded when my office requested your intervention.

Mr. Russell has contacted District of Columbia elected and administrative officials, testified before Congressional Committees and the City Council, been the subject of interviews with the media, and attended meetings with Congressional staff on more than a dozen occasions over the last two years. Those contacts have all involved the unresolved issue of transferring the St. Elizabeth's firefighters to the District's Fire Department. Further, Mr. Russell has informed me that his performance evaluations have been satisfactory, that he is an emergency medical technician and that he has successfully pursued fire training programs at UDC. As a veteran of the unit, he would appear to be a good candidate for permanent employment.

As my staff has suggested in conversations with your Congressional Liaison Office, these circumstances and Mr. Russell's planned termination give the appearance of retaliation. The fact that Mr. Russell, a two year veteran, recently applied for a permanent position fully three weeks before the closing date (August 19, 1989), but did not even have his application considered, as well as the fact that there is yet another vacancy in the firefighting unit for which he has been told his application will not be considered, raise serious questions of fairness, as well as whether appropriate procedures may have been circumvented.

Mr. Mayor, I believe that plans to terminate Mr. Russell may be the result discrimination, and I hope that this situation will be re-evaluated. I look forward to working with you and Chairman Dixon in the weeks ahead to resolve the larger issue of integrating the firefighters into the District's Fire Department, as well.

Thanking you in advance for your consideration, and with kindest regards, I am

Sincerely yours,

STENY H. HOYER

LETTER FROM MAYOR MARION BARRY, JR.

January 30, 1990

The Honorable Steny H. Hoyer
Congress of the United States
House of Representatives
Washington, D.C. 20515

Dear Congressman Hoyer:

This is in response to your earlier letter on behalf of Mr. David Russell, one of your constituents.

Mr. Russell was a nonpermanent employee at the Commission on Mental Health Services, Department of Human Services, when he applied for a permanent position of Firefighter on July 25, 1989. The positions were announced on May 19, 1989 with a closing date of August 19, 1989. It was anticipated that there would be difficulty in attracting a sufficient number of candidates. Therefore, the decision was made to advertise the position for six months, which is the maximum amount of time authorized, similar to open and continuous vacancy announcements.

As stated in the District Personnel Manual (DPM), Chapter 8, Appendix A.9.C.4, "when an open continuous vacancy announcement is used, the announcement must specify the initial screening date of applicants." The screening date is the point at which the Personnel office is authorized to screen the first group of applications received and certify those who have been identified as qualified to management.

The vacancy announcement clearly stated that the first screening date was June 2, 1989. A sufficient number of applicants applied for the positions between the opening date of May 19, 1989 and the first screening date. One June 13, 1989 Personnel determined that 14 candidates were qualified and a selection certificate was issued. Selections were made from that certificate on June 26, 1989.

There was insufficient time after selections had been made and prior to Mr. Russell applying for one of the positions to formally cancel the announcement and notify applicants who had applied after the close of the first screening date.

Mr. Russell indicated to you that there was another vacant position; however, we have found that there have been no vacancy announcements since the May 19, 1989 to fill any vacant Firefighter positions.

In reference to your concerns regarding discrimination, the D.C. government is an equal opportunity employer. All qualified candidates will receive equal consideration without regard to race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, physical or political affiliation.

I wish to assure you that if Mr. Russell applies for any future positions with the D.C. government, he will be given fair and equitable consideration. Mr. Hoyer, I thank you for your efforts in working with us as we develop a comprehensive mental health system for the District of Columbia.

Sincerely,

Carol B. Thompson
for Marion Barry, Jr.
Mayor

MENTALLY ILL

STATEMENTS OF:

BARBARA BICK, FRIENDS OF ST. ELIZABETHS HOSPITAL

ROBERT A. WASHINGTON, PH.D., COMMISSION ON MENTAL HEALTH, D.C. DEPARTMENT OF HUMAN SERVICES

PREPARED STATEMENT

Mr. DIXON. The subcommittee will come to order.

Our next witness is Barbara Bick, Friends of St. Elizabeths.

Miss Bick, please be seated. If you have a written statement for the record, we will be pleased to enter it into the record. If you would like to highlight what your concern is, we would appreciate hearing from you at this time.

[The statement follows:]

STATEMENT OF BARBARA BICK

My name is Barbara Bick. I am a founder and past president of Friends of St. Elizabeths, an organization devoted to the concept of a continuum of care for the chronically mentally ill in the most therapeutic environment. My daughter was an in-patient at St. Elizabeths for many years. She currently lives in the community and receives services at a community mental health center.

Last month I was one in a delegation of 17 Washingtonians who undertook an intensive 5-day study trip to Bethel, an extraordinary therapeutic community of some 7,000 mentally, physically and socially disabled and well persons in the city of Bielefeld, Germany. D.C. Councilman H.R. Crawford, chair of the D.C. Council's Committee on Human Services, as well as staff members from the offices of Councilman John Ray and Councilwoman Wilhelmina Rolark were in the delegation. Others included Betty King, Deputy Commissioner of the D.C. Commission on Mental Health Services and Alice Redmond, Administrator of CMHS's Adult Services. Each member of the delegation, attuned to their specific expertise, gained new insights and brought back heightened aspirations for what can be accomplished in care and treatment for the mentally disabled and the homeless (or as they term them, the socially disabled). I would like to share with you one of my most inspiring impressions.

The Bethel Institutions are based on the concept that every human being has the need to be productive; that human self-esteem comes through creating and doing—working—at whatever level is possible for each individual. Every member of the Bethel community, no matter how disabled, is part of a work therapy team. What is astounding is that most of this production is often beautiful and in large part, is also profitable. Children's toys are produced in the woodshops, bicycles are mended in the machine shops, paperbinders are mass produced, cloth is woven and place mats, tablecloths and wearing apparel are sewn, nuts and bolts are assembled and packaged. All of this productive activity goes on in bright, highly attractive and gaily decorated rooms. The work teams are small and the atmosphere is lively. The patients were delighted to share with us and to show off their work. We watched the work therapists and marvelled at the creative ways in which they manipulated tools to adjust to each individual's handicap.

Why do I bring this particular aspect of the Bethel community to your attention today? We are concerned about the uses of the more than $26 million which the Federal Government set aside for renovation of facilities for patients' use in connection with the transfer of St. Elizabeths to the District of Columbia. We are concerned that some of these funds will be diverted from patients' use and instead be expended to convert patients' wards to administrative offices. We believe that these funds should be used to install innovative and productive work therapy programs for both in-patients and the community-based mentally disabled.

On March 27, City Administrator Carol Thompson asked that funds be used to convert two long-term inpatient buildings, the Nichols and Haydon Buildings, to office space, although the Commission at the present time occupies ample, modern offices. The request was made so as to "consolidate Commission services on the east side of the St. Elizabeths campus, as decided long ago. Currently, many of the buildings on the west side of the campus are being utilized for office space."

In point of fact, the future of the West Campus, the way it will be used and for whom it will be used has not yet been decided. In point of fact, the Commission has already requested, long ago, that a number of buildings on the West Campus be kept for the use of the Commission. These include the Hitchcock Building, the laundry, the warehouse and other buildings.

The District of Columbia is in crisis. D.C. shares burdens similar to many other U.S. cities, but without the resources of a state. D.C. is in crisis with an understaffed psychiatric hospital and a hospital population which the Commission has not been able to substantially reduce despite all of its will to do so. At the time of the transfer of St. Elizabeths, the inpatient census was 1,470. The Plan envisioned that by 1990, this number would be reduced to 780 persons. Today the on-ward inpatient census hovers around 1,390.

The District of Columbia is in crisis with its drug population, including those with mental disabilities. D.C. is in crisis with the numbers of homeless, including homeless families and the homeless mentally ill. Yet just this week, the D.C. City Council has felt it incumbent to drastically curtail assistance to the homeless because of a financial crunch. At such a time, it is unseemly for existing hospital wards to be converted to duplicate existing administrative offices. It is poor planning to convert hospital wards into offices when there is clear evidence that the homeless, the addicted and the chronically mentally ill need those facilities now and in the foreseeable future.

A major factor in the inability of the Commission to reduce the hospital census is, according to Carol Thompson's testimony, "the extreme difficulty in locating decent, appropriate, affordable housing for our clients." Another factor is the lack of good psycho-social, rehabilitative programs, both on-campus and off, for those clients. As Bethel amply illustrates, extensive work-therapy programs are both cost-effective and client enabling. The West Campus of St. Elizabeths already contains facilities which could become excellent work-therapy sites as well as productive economic entities. These include extensive greenhouses, a bakery, a laundry, a machine shop and more. We strongly urge that the allocated Federal funds be used to upgrade and provision these facilities for patient programs. There should be a prohibition against use of funds for office space while geriatric facilities need to be renovated for accredited patient use.

In addition, Friends of St. Elizabeths would like to recommend the following changes in basic statutes:

Change in statutes such as the District of Columbia Community Mental Health Centers Law and McKinney Transition Housing statutes which prohibit treatment, facilities and transition housing on institutional grounds.

Change the St. Elizabeths Hospital and District of Columbia Mental Health Services Act from a community-based system to a continuity of care model.

Thank you very much for your attention and your concern.

Ms. **Bick**. I am going to read it since I am not too good at this. My name is Barbara Bick. I am a founder and past president of Friends of St. Elizabeths, an organization devoted to the concept of a continuum of care for the chronically mentally ill in the most therapeutic environment.

My daughter was an inpatient at St. Elizabeths for many years. She currently lives in the community and receives services at a community mental health center.

Mr. DIXON. Excuse me, Ms. Bick. OK, go right ahead.

Ms. BICK. Last month I was one in a delegation of 17 Washingtonians who undertook an intensive 5-day study trip to Bethel, an extraordinary therapeutic community of some 7,000 mentally, physically, and socially disabled and well persons in the city of Bielefeld, Germany. D.C. Councilman H.R. Crawford, chair of the D.C. Council's Committee on Human Services, as well as staff members from the offices of Councilman John Ray and Councilwoman Wilhelmina Rolark were in the delegation.

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CONCERN OVER USE OF RENOVATION FUNDS

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At such a time, it is unseemly for existing hospital wards to be converted to duplicate existing administrative offices. It is poor planning to convert hospital wards into offices when there is clear evidence that the homeless, the addicted, and the chronically mentally ill need those facilities now and in the foreseeable future.

A major factor in the inability of the commission to reduce the hospital census is, according to Carol Thompson's testimony, "the extreme difficulty in locating decent, appropriate, affordable housing for our clients."

Another factor is the lack of good psychosocial, rehabilitative programs, both on campus and off, for those clients. As Bethel amply illustrates, extensive work therapy programs are both cost effective and client-enabling. The west campus of St. Elizabeths already contains facilities which could become excellent work/therapy sites as well as productive economic entities.

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RECOMMENDED CHANGES IN BASIC STATUTES

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Change the St. Elizabeths Hospital and D.C. Mental Health Services Act from a community-based system to a continuity of care model.

I have included, but I will not read the testimony of the originator of our trip to Bethel. That was written by Gisela Kopp who organized that study.

I am also submitting pictures of Bethel which gives you an idea of some of the work/therapy sites. Thank you very much.

Mr. DIXON. Thank you very much for your testimony. Let me say that I certainly congratulate you on your interest in the mental health system and your activity in this effort.

The only thing I would say to you, Ms. Bick, is that it would appear that your efforts and the efforts of others are headed in the right direction, but as I told the previous witness, this is the wrong forum.

You say in your testimony there was a 5-day fact-finding trip. It included somebody from Dr. Washington's Commission on Mental Health Services. It included people from the City Council, and based on all of that I assume they are working on it.

Now, you have a disagreement as to the priority for the $26 million in Federal funds. You say don't let it go for bricks and mortar, but Dr. Washington—I am not going to ask him to speak—may feel that some of that brick and mortar work is necessary to maintain the facilities at a certain level, so I really congratulate you. But this is the wrong forum to raise those issues, and it doesn't seem to be a stalemate because you said Councilman Crawford and staff from the offices of Councilman Ray and Councilwoman Wilhelmina Rolark, and the deputy commissioner of the D.C. Commission on Mental Health Services went on that trip.

Give them an opportunity to work this out.

Ms. BICK. Well, let me say that the west campus is still Federal property, and what happens there is very much your concern. Also, the Federal money, how it is used is also very much your concern, and we are not convinced, despite the fact that people went on this trip, that they are going to follow through.

The District of Columbia is in a state now of—I don't want to use the word, "crisis," again, but in a troubled state, and I do think that Congress does still have an oversight——

Mr. DIXON. We do have oversight, but Congress is criticized for interjecting ourselves into the affairs of the District. We have tried not to do—I have tried not to do that. This committee has tried not to do that, and it would seem from your testimony, there is a process in motion at the present time.

Ms. BICK. Well, we are working on it.

Mr. DIXON. Let me ask you, did you testify about these things either at the City Council level when there was a hearing——

Ms. BICK. Oh, yes. We testify at every level, and we consider that while the west campus still belongs to the Federal Government, that we should testify at the congressional level.

Mr. DIXON. But, Doctor, the District of Columbia has control over that campus.

STATEMENT OF ROBERT A. WASHINGTON

Dr. **Washington**. The west side is on a lease permit from the Federal Government to the city. I just want to make one comment which I hope will be helpful to Ms. Bick, and to others who have her point of view.

I think the mixing of the two issues makes it more difficult for the position to be heard. Everyone would agree that productivity and work for clients is necessary and useful, I certainly would, and that we should develop that using the grounds as well as in the community.

But to say that the entire west side should be preserved for that purpose makes it very difficult for people within D.C. government to support the position, and so——

Ms. **Bick**. But I never said that.

Dr. **Washington**. OK. Then there is lots of room, as he is saying, for negotiation.

Ms. **Bick**. Oh, I agree, and I do want to negotiate with everybody, but I also would like to keep Congress informed because the west campus still does belong—it is congressional money.

Mr. **Dixon**. Mr. Gallo?

Mr. **Gallo**. Well, I think that Bethel appears to have a program that works. I know that disabled workshops have been meaningful, not only to the individual's satisfaction of accomplishment, but also in giving parents or those that have been caring for the individuals, a brief respite and a different attitude when that person comes back home. So, I agree it is certainly a worthy cause and one that works and one that should be expanded.

Ms. **Bick**. Thank you.

Mr. **Dixon**. Thank you for your testimony today. Keep up the good work. I didn't mean to be too harsh. And, Dr. Washington, if you will just stay for a few minutes, we have Dr. Eliot Sorel who is going to testify on St. Elizabeths Hospital.

Mentally Ill

STATEMENT OF ELIOT SOREL, M.D., AMERICAN PSYCHIATRIC ASSOCIATION

ACCOMPANIED BY ROBERT A. WASHINGTON, PH.D., COMMISSIONER ON MENTAL HEALTH, D.C. DEPARTMENT OF HUMAN SERVICES

Mr. **Dixon**. Dr. Sorel is with the American Psychiatric Association, and his testimony today relates to St. Elizabeths Hospital. Doctor?

Dr. **Sorel**. Mr. Chairman, thank you very much for this opportunity to discuss the mental health services in the District of Columbia. I am Dr. Eliot Sorel. I am representing 36,000 members of the American Psychiatric Association and 1,200 members of the Washington Society. Dr. Washington and his staff are competent and dedicated. They have done a fine job under very trying circumstances.

Nevertheless, the system under which they operate is frozen in a log jam of human misery. One thousand five hundred patients, the figure doesn't budge, and no way to treat them adequately. All outside alternatives are saturated. It is plain to see and all observers agree, there are underserved patients, understaffed programs, overwhelmed staff members.

A 20- to 30-percent vacancy rate in professional staff means the job can't get one. Patients are suffering. I have three requests to present to you today. The fourth I would make is beyond the jurisdiction of your committee, but first give Dr. Washington and his staff the organizational autonomy to manage their fiscal and personnel resources.

That is the province of this Government, and it is beyond the scope of this testimony here today. But three measures, I believe, are in your power to grant. First, restore a crucial part of old money that never has arrived. It was clearly the intent of Congress in Public Law 621 to fund training. The training program is vital to the commission.

It makes an indispensable contribution to quality of staff, to staff recruitment, retention, and to patient services, and may I add, morale, which is essentially in the practice of their profession. But there was a loophole in the language of Public Law 621. Its agreed-on commitment to fund training slipped through it.

The commission chose to fund training and has done so for 3 years, but it had to sacrifice other things. Please correct this error.

I think what $4 million could do, 100 professional staff could provide enough additional therapy, rehabilitation, and I would emphasize rehabilitations because many of these patients would require rehabilitation long term, rehabilitation, and community support to considerably ease the log jam.

Second, Public Law 621 called for capital improvement funds. Mr. Dellums' bill, H.R. 4381, permits $5 million to be used for supported off-campus housing. We are on record supporting this. But we urge you to go further. An additional $5 million from this pot can be made available to create adequate living places and sheltered workshops, again the work aspects of this could not be overemphasized; some of it on the campus, some of it off the campus. We say none of the $15 million should be used to create new office space.

Third, conserve all of the invaluable and irreplaceable land resource of the St. Elizabeths campus for the mentally ill. The city's executive branch has prioritized economic and commercial development for the west campus. Instead, let's use it imaginatively to create a thread to the community.

A delegation of city leaders, as you know, including members of our society has visited other models that has been amply already presented to you, and I may add, this is not the only model existing. I think we need to learn from all existing models in our country and overseas to put the best possible in our capital of the United States.

On a very human scale in a lovely campus like setting, it provides therapy, rehabilitation, job training and jobs, attractive residences with a necessary degree of supervision. Patients can heal and move on. In a sense, a kind of a kinder, gentler psychiatry.

Please save the land from sale or lease. Save it for an innovative model community. Begin the model community by designating as a line item in the budget that a portion of the $15 million or capital improvement money be used to reconfigure some west campus buildings into a halfway house or transitional apartments along with work enterprises.

Again, this theme of work is essential for this enterprise. There are many things that Congress could do also without any additional expenditures, and I think this will be very important as well. For instance, it could influence the national medical museum when it leaves Walter Reed to locate at St. Elizabeths campus as a flagship enterprise that would bring the public into closer contact with the patients in integrating and destigmatizing the place and the people who live and work there.

In the spectrum of opinion, both public, private, professional, and lay people, some advocate for community-based services. Others advocate for hospital-based services. I think we need both. There is no conflict. There is only complimentarity between the two. Community based and hospital based are needed and both are mandated, wisely so, in Public Law 621.

I would just add that community, when we talk about community, we do not just talk about a location. It is a state of active caring, mutual helping, communication, and belonging. We need community locations throughout the city.

We need the community and campus for those who need concentrated resources and time to heal or who need a protected setting and protection is very important, I believe. The original intent of the asylum was precisely to be a protective environment in order to find meaningful lives.

PREPARED STATEMENT

When the city comes before you with its master plan for the west campus, insist that the plan be for the community for the mentally ill and the mentally ill homeless. I would like to enter into the record additional information about the conditions of the commission and a report of the model Bethel institution. I would be pleased to provide additional information.

Thank you for your attention and consideration.

[The statement follows:]

STATEMENT OF ELIOT SOREL

The American Psychiatric Association and Washington Psychiatric Society have long been concerned with mental health services in the District and have closely followed developments before and since the transfer of St. Elizabeths Hospital to the District to be incorporated into a city-wide comprehensive mental health system in accord with PL-621.

Three factors have crippled the new Commission since it's birth: (1) reduction in budget by both the federal government and the District, (2) District bureacratic encumbrances that prevent the Commission from pursuing the most effective fiscal and personnel policies, and (3) an ideologically driven requirement, reinforced by the Dixon agreement which values "community" based care over hospital-based care, although PL-621 calls for an appropriate balance of the two.

These factors have resulted in a major understaffing: all observers agree that the Commission needs it's full complement of staff to do it's mission--3,800--but it has on board now 3,100. A 25-30% vacancy rate amongst professional staff means that three do the work of four. It means underserved patients, understaffed programs, and overwhelmed staff members. Concretely, it looks like this:

--Picture the logjam in the acute hospital, where the most disturbed, psychotic, and often assaultive patients are taken, usually against their will. Often they are agitated from substance abuse and withdrawal as well. Planned for 160 beds, this facility is always at 110-125% of capacity, meaning that patients needing ease and privacy sleep on cots and mattresses in hallway and dayroom. It is not healthful to be a patient in these circumstances. Sheer numbers press the doctors to "treat them and street them". Not surprisingly, many relapse in revolving-door fashion, or enter the ranks of the mentally ill homeless roaming the streets. In recent months, one resident physician narrowly missed being choked, another narrowly missed being stabbed. Just a months ago, one nursing assistant was savagely assaulted by two patients, his ribs broken. There are not enough doctors, nurses, psychologists, or activities therapists. There is no money for a guard and metal detector, nor for a panic alarm system. Desperately frustrated staff members on one ward recently called the fire marshall when the 33rd patient arrived on their 23-bed unit.

--The forensic hospital, which treats criminal offenders with major mental disorder, is also seriously overcrowded. Recently, one patient killed another.

--In the long-term hospital, staff vacancies are even greater, as staff was cannibalized to shore up the acute hospital and the community mental health centers. The staff valiantly struggle to provide active treatment programs. But the ability to provide treatment programs that will enable patients to lead more satisfying livel, and to progress towards independence if they can, is severely circumscribed by shortages of personnel and facilities.

--The outpatients have improved considerably since the transfer. But again, there are too many patients and not enough staff and programs for them. Case managers have caseloads of 40-60, or double what they can reasonably handle. Elsewhere in the country, the most difficult and vulnerable patients are seen in caseload ratios of 5 or 10 to one staff member to prevent relapse and maintain outpatient tenure. Likewise more day treatment programs are needed. The few that exist are excellent.

--There are not enough spaces in community residence facilities (CRF's), not the specialized facilities that many patients require, and certainly not enough quality or quality control. While many CRF's do a good job, the untoward incidents we read of in the newspapers are a tip of the iceberg, like the elderly woman who deteriorated in a so-called community facility while on Commission outpatient rolls. She was eventually brought, covered with maggots, to the George Washington University emergency room, where she died.

--And then there are the mentally ill in rags and tatters, muttering to themselves, or helplessly mute, sleeping on grates and benches, or in shelters for the homeless. With the proposed D.C. cut in shelter funds, even more will be on grates and benches. Studies reveal that a minimum of 15% of the homeless on the streets of Washington suffer from a major mental illness like schizophrenia. That is a minimum: 750 persons in the city right now. The actual number could easily be double. Amongst these, some have never been in the mental health system. Others have fallen between the cracks of deinstitutionalization: the pressure to shrink the hospital, despite the absence of viable and adequate alternatives.

(1) The D.C. Commission on Mental Health Services, despite good leadership and competent staff, has been forced by staffing deficits and budgetary constraints to rob both Peter and Paul:

to strip inpatients services in order to provide still-inadequate outpatient resources.

Some of the "community-based" treatment services provided to patients are of model quality. Providers include Green Door, Woodley House, Anchor House, Barney House Community Connections, and a few others. However, the City has also contracted with a number of for-profit contractors whose per-capita costs are higher than those of the nonprofits. Such for-profit contracts must be closely monitored for quality performance at cost-effective prices.

The budget has been cut each year, both on the federal and on the City side. Federal cuts are due to Gramm-Rudman. City cuts are due to the mounting budget deficit. It should be noted that in the past few years the federal contribution as a percent of city budget has declined by 35%. Some analysts say that the federal government is no longer meeting costs of what the City is providing it.

On top of this, the federal government has not met the moral obligation expressed by the Congress in PL-621 to maintain the training programs in the Commission. All observers agree that the training program makes a vital contribution to the mission of the Commission. It is key in the recruitment and retention of staff and in the maintenance of quality programs. Although its staff and trainees make significant contributions to patient care, the Commission has had to made a Sophie's choice in agreeing to sustain training. It has had to sacrifice the hiring of other staff members also desperately needed. It is not clear where the money should come from now. but it certainly seems proper that the federal government follow through on the intent expressed in PL-621. Over the years certain programs, such as the community mental health centers acts, resulted in the expenditure of public funds for programs intended to serve, but not actually serving, the population that the Commission is struggling so hard to assist. The Commission deserves to be relieved of the financial burden of the training program it has carried for three years.

(2)Budgetary problems have been compounded by bureacratic ineffeciencies and ineffectiveness. Initial difficulties were horrendous, including shortages of vital medical supplies like penicillin. This has abated over time. But still a fundamental policy remains. The Commission lacks the flexibility to set it's own administrative policies. It cannot, for instance, offer competitive salaries or inducements to specialized professions in critical shortage, making it difficult to recruit and retain the highly qualified staff. The City does not seem inclined to give the Commission the sort of agency autonomy that D.C. General has been able to use to good advantage in carrying out its mission.

(3) In leaning away from hospital based services toward community-based services, the Commission has gone to far, driven in large measure by the Dixon requirements. For instance, the FY 91 budget assumes a reduction of patients living on campus: 480 are to move off campus in the next 20 months. But no one knows where they will move, or how suitable are all of them for being moved about, or whether they all want to move. Likewise, a decision was made in vocational administration to prioritize mainstreaming, to the loss of sheltered employment. But not all patients can be mainstreamed. Many would profit therapeutically and financially from sheltered workshop opportunities. Some patients are pressed to give up satisfying sheltered employment on the hospital campus and to attempt community jobs they are unable to hold.

There seems also to be a bias against the campus itself. People speak of the stigma of being on the campus, so it was not seriously considered as a facility for the 300 disturbed D.C. youth now dispersed around the country. Advocates for "community-based" care are unable to recognize that many of the chronic mentally ill want a community of handicapped persons by choice. It is possible to construct a community out of an institution. The City stands to gain a major land-resource in inheriting St. Elizabeths Hospital. It is tempting to use it to solve some of it's fiscal and urban problems. But that would be extremely short-sighted. Once the St. Elizabeths campus is disassembled, it can never be reassembled to serve the needy. Even as a fiscal engine, it's use is limited. Because it is in a low-income neighborhood, it could not realize a high-end fiscal potential unless the entire area were gentrified, with prices driving out the local residents and businesspeople, which they do not want. There are many populations in the city with severe emotional disorders: patients whom the Commission serves, the unserved mentally ill homeless, substance abusers with mental disorders, the elderly with dementias, etc. The campus can be used creatively and imaginatively to serve these people, to create a therapeutic for them, a facility of which the City can be especially proud. It would be something unique, and as such, would bring benefit to the entire area. In fact, one can imagine Anacostia and Congress Heights as a visitor area, with trolleys shuttling visitors between Old Anacostia, the Anacostia Museum, the Frederick Douglass Home, and the lively therapuetic community, open to the public, situated on the St. Elizabeths campus. The land resource which Congress granted to the use of the mentally ill owing to the appeal of their advocate, Dorothea Dix in the last century, is no less needed by the mentally ill of today.

ADDENDUM B--REPORT OF THE MODEL BETHEL INSTITUTION

VISIT REPORT:

I was part of a 20-member Washington, D.C. study delegation, composed of civic and political leaders, community planners, mental health advocates, mental health administrators and mental health professionals, to the Bethel Institution, Bielefeld, West Germany. This is my account of what I observed and learned.

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BETHEL: AN INSTITUTION THAT IS A COMMUNITY

Kenneth Gorelick, M.D.

Overview:

The Bethel model approaches the rehabilitation of persons with mental disabilities with two principles in mind: "integrate into life" and "with one another (together)".

It's not that these principles are original and new. It's that they are successfully so applied on such a large scale at Bethel.

The Bethel institutions were founded in 1867 through the efforts of Friedrich v. Bodelschwingh, a socially-minded pastor.

In all, the Bethel institutes occupy four campuses, employ 9,000 staff, serve 5,800 resident patients. Five distinct populations are helped: (1) persons with epilepsy, (2) with mental retardation, (3) with mental illness,(4) socially maladjusted youth, and (5) the homeless. This report focuses on the home Bethel campus, and on the mentally ill.

Bethel is a community of 7,000 persons living on an 800-acre section of the city of Bielefeld, W. Germany, a state capital with a population of over 300,000. About 2,500 of Bethel's residents are persons with diverse mental handicaps. The rest are therapists, physicians, psychologists, social workers, teachers, clergy, planners, maintenance and support staff and their families.

Bethel is open to its surrounding area of Bielefeld. Its campus is attractively planned, with architectural variety and handsome landscaping. There are many homes--homes for the disabled and old, for students and nurses, for staff and their families. There are buildings for the central work of the institution - clinics and workshops, occupational therapy units, administration. There are support buildings - church, library, post-office, hairdresser, bakery, bookshop, gymnasium, pre-schools, grade schools, schools of higher learning (theology), a small department store, craft outlet shops, an auto repair garage.

Although by its size Bethel is an institution, in it's feeling of commitment to each handicapped resident and in it's organization on a very human scale, it is in fact a community. The feeling is one of friendly intimacy. So it is better to speak of the Bethel institutes, rather than of an institution.

Philosophy of Care and Treatment:

The common purpose and guiding philosophy is to provide the handicapped with trust, with personalized caring, with opportunities to grow and develop maximum independence along with psychological and spiritual strength. Bethel provides a home as long as necessary, with follow up and support afterwards, and with gainful activities. Included are an abundance of workshops and work opportunities. Even the elderly, even the most handicapped, have busy hands, whether expressing themselves in paint, clay, etc., or in doing paid piecework as part of the industrial enterprises. The goal is to foster the most independent lives possible, within a context of interdependence "with one another."

Each person is seen as having gifts, along with handicaps. Each person has a unique contribution to make, and "with one another" a community is built. Even the names of buildings and programs reinforce the purpose and mission. Bethel for example is the "place of God," the spot where Jacob wrestled with the good angel, and afterward surrendered to his commitment. And his struggle marked him. He came away from the encounter with a limp; i.e., a handicapped person. Here, then, is Bethel's credo:

*"Each person is needed; no person is without gifts.

*We want to go openly, respectfully, and with love for one another, to strengthen self-responsibility and self-confidence, and to protect the lives of those who are weaker against those who hunger for strength.

*We seek to encounter one another, to encourage the exchange of experiences, and to accept differences of opinions.

*We try to be prepared to live with conflicts, to admit to mistakes, to avoid the use of force, and to forgive the wrong doings of others.

*At the same time, we want to strengthen our courage to trust and our ability to hope."

__Workshops and Work__:

The goal of the Bethel community is "to provide every person, despite sickness and handicaps, with the opportunity to develop his or her own special talents in a pleasant and friendly environment." "In each person's innermost being, there exists a great abundance of creative power. The more one is aware of this power, the better one is able to develop it. For every person, the conscious experiencing of this creative strength is important...The experience of one's productivity is an important step to building self-confidence...This productivity appears in the process as well as in the product of their work...No matter how severely or multiply handicapped an individual is, there is no lower limit for the ability to achieve; no one is without gifts." ("Bethel Messenger", 1985).

Julia v. Bodelschwingh, wife of the second director, was an artist especially sensitive to the correlation between art, handwork, and therapy. She set up a weaving workshop and made sure good products were produced there. Her successor, Mrs. Koch-Otte, was a graduate of the best art school of the day, the Bauhaus, and was a craftsman, artist, and therapist all in one. The Bauhaus approach is to blur the distinction between the merely useful and the merely artistic, seeking a union of use and beauty. So in Bethel, work is made beautifully, and creating beauty is important work. Some may cultivate the indoor plants or outdoor garden of their residence. Some may do industrial piecework in a clean, well-lit attractive space. Some may work in the craft shops producing furniture, table or desk items, or toys. Some may work in the weaving shops making clothes for dolls, children, adults; household items; wall hangings. Others may express their inner beings in clay or paint. Even humble items may have continued life as postcards printed in the Bethel print shops.

Others may work in the car repair shop, the bakery, or the Stamp Collecting Center. The Center employs 35 persons in the workshop, and another 65 part-time workers doing at-home work in their residence. Stamps are received from a worldwide network of contributors and are sold to collectors throughout the world. The

U.S. collection center is the United Church at G Street, in downtown Washington, D.C.

Founder Friedrich v. Bodelschwingh called "happy, useful work" the "best medicine." Accordingly, Bethel provides a large central craft workshop in fabric and wood employing 700 people, plus about 40 decentralized workshops, freestanding or attached to residences, serving another 700 people. For the sicker patients, the activities are occupational therapy in nature and are associated with art, music, song, physical activities, etc. For those who are able, remunerative work provides wages, insurance, and pension.

Schools:

The educational field is rich. Schools for the non-handicapped begin with pre-school centers, include grammar schools attended by families of staff and of local residents who choose these schools for their quality, technical training schools for nurses, for ministers, a site for professional seminars and retreats. Education opportunities geared to the handicapped include special schools, vocational training. Adult education includes courses in cuisine, art, languages, community living, etc.

The Role of Patients:

It is clear that patients are at the center of the Bethel community. At the outset of our visit our ceremony of greeting included accordion music by Hermann, a man of about 40, his face clearly marked with the physical stigmata of his developmental disorder. But his smile shone through, along with his joy in making music for us.

Mr. Rubickheit gave us words of welcome. He is a patient who works in the bakery. In addition he is "team leader" of a team of 20 patients. He helped organized the Patient Teams, which have won recognition and have influenced policy locally and even nationally. For example, its members campaigned successfully for wheel chair accessibility; for keeping open stores that were only marginal economically but a great convenience for patients. The Team even campaigned for a federal election law giving the vote to the handicapped.

Psychiatric Hospital:

Bethel includes an 1100 bed general hospital for the city of Bielefeld. The hospital contains 228 acute psychiatric beds.

We were shown the acute psychiatric services by the chief psychiatrist for Bethel and for Bielefeld, Dr. Niels Poerkson, who had spent a year of fellowship training in community psychiatry with a leader in that field, Dr. Gerald Kaplan. Gilead 4, the acute hospital, is divided into 14 wards each containing 16-20 patients. There are 125 general adult beds, 59 geropsychiatry beds, and 46 substance abuse beds. Of the 7 general units, 4 are open, 3 locked. The staffing is currently 160 nurses, 23 psychiatrists, 4 psychologists, and 4 social workers. The average length of stay is 34 days for the psychiatric patients, and 15 days for substance abusers. A recent federal survey recommended staffing increases of 38 nurses, 5 psychiatrists, and a doubling of psychologists and social workers, so that each ward would have a psychologist, a social worker, 2 psychiatrists, and 14 nursing personnel for the 16-20 patients.

Of the geriatric patients, about 20% cannot return home and must be referred to specialized care facilities. Only a very small percentage of these--5%--are sent to regular nursing homes.

Low-Intensity Treatment of the Chronic Mentally Ill:

There is no long-term psychiatric hospital. There are just two wards for chronic patients, totally 30 beds. Nearly all long-stay patients live in small residences.

About 350 chronic psychiatric patients reside in 14 home-like dwellings, mostly with 15-25 residents. We visited the largest of these homes, Libanon House, home to 41 men.

Libanon House is the largest of the residences for chronic mentally ill. It's 41 men range in age from 24-82 years. The philosophy is to mix different ages. One added advantage of this arrangement: it is hoped the younger men will have a stronger motivation to move on and out. There are 11 staff, including one on night duty. There are no longer any resident "houseparents".

The facilities are arranged for pods of 6, with kitchenettes and living/lounging areas. Most rooms are private, some with balcony or atrium overlooking plantings. Meals are taken communally. About 30 of the 40 are on psychotropic medication, 8 taking it on their own, the rest under supervision. A psychiatrist comes once a week for 2-3 hours. Many crises are contained here. There are about 2-3 admissions annually to the acute psychiatric hospital, Gilead. Everyone works at something until age 65; after 65 they participate in structured leisure activities. Those who don't work outside Libanon House help with its very beautiful gardens, lawn, and fishpond. On our arrival, we were treated to a piano and guitar duet composed by a long-term resident of 23 years.

Throughout the house we noticed personal and group touches, including plants, artwork, homey furniture, the kitchenettes, and bulletin-boards that included souvenir photos of trips and holidays. A local trip occurs most weekends, and several major trips each year. Denmark is scheduled next.

High-Intensity Residential Treatment for the Chronic Mentally Ill:

The largest residential structure for psychiatric patients is the 42-places Pniel Rehabilitation Program, "a school for living" designed to last 2 years, for young adult men and women. A fourth of the patients have epilepsy. Residents here learn to cook, clean, shop, budget. They live in groups of 10 with mostly private rooms. Lunches are prepared for the patients, as they are busy in sessions or workshops. They budget and prepare other meals on their own. The refrigerator is divided into individual lockers so each may be responsible. The workshop component consists of a metal working and a woodworking shop that makes tables and desks, has back orders, and turns a small profit for the house. Residents work 2-6 hours daily. There is a bicycle repair business, and a clothing operation. Staff consists of 14 professional staff and 6 workshop staff. Professional staff includes a social worker, educational specialists, nurses, 2 psychologists, and 2 psychiatrists. Families are invited twice a month and meet without patients, as this is felt to be the best way to assist with separation from over-involved families. Televisions are used sparingly. All residents belong to a sports activities group. Each year includes a two-week vacation; we saw fotos of a boating trip in the Netherlands, and a villa stay in Italy.

Of the 20 graduates each year, most find situations in Bielefeld. Ten are on a waiting list now for housing in Bielefeld.

Of the 42, 30 will graduate to outside living with outpatient support; 6 will drop out, and 6 won't be able to make the high functioning goal and will be referred to one of the long-stay houses like Libanon, or Heidegrund.

Heidegrund, or "heather-land", is an open townhouse construction, built around an attractive dining room, and inhabited by 64 mostly chronic psychiatric patients. All have single rooms, built around common living and kitchen areas. As the people here tend to be withdrawn, the attractive cafeteria brings people together. There are 6 staff for every 8-16 patients, and efforts are always made to help people move on. Occasionally there are surprises and some of the long-term people are able to move to a more independent situation.

High-Intensity Treatment in a Day Program Off-Campus:

The Day Clinic is located off the Bethel campus, more in the center of Bielefeld. This facility treats 28 young adults divided into four teams, treated by a staff of 10 mental health professionals--two nurses (one of whom does psychodrama) two psychologists (one of whom does Gestalt therapy), two social workers, two psychiatrists (one of whom does dance therapy), and two occupational therapists, plus a secretary. Stays range from three-ten months, though there is no time limit. Most live with family or have their own apartments. A few are in supported apartment living. They are referred from the outpatient department or the acute psychiatric hospital.

In addition to the usual psychotherapies, including family therapy, patients participate in the operations of the house, such as preparing breakfast. They also participate in the omni-present craft and industrial workshops, making marbleized papers and notebooks, and wooden toys. The goal is to help these people find jobs and living arrangements in Bielefeld, and keep them.

Residential Treatment for Elderly Psychiatric Patients:

Rehoboth is a place for 64 elderly with mental disorders. It's name--like all place names at Bethel--carries connotations: it is the place of the wellspring, a place with ample room. Since this is a locked facility and the people's scope of activity is reduced, the roominess has been brought within. An attractive large room, with airy windows, plants, and appealing furniture, serves many functions. A jewel-like chapel for daily and Sunday worship is set into one side. Daily assembly and sitting gymnastics are held here. Small groups gather oral readings, music therapy or music listening. Coffee klatches are held twice weekly.

But the piece de resistance is the light-flooded, spacious, plant-and art-filled activities workshop. Each person has his or her own seat, where he or she can do art or craft work, paid piece work, or just listen to music. At a recent mothers' day celebration, families and patients made flowers and danced together, affording means of communication even to those who are not verbal.

A Support Center:

West Eck House is not a residence. It provides education, support, encouragement, and growth for chronic patients. It offers evening and weekend social and educational programs in support of those who work during the day. The daytime program is aimed at encouraging new activities amongst chronic patients and at encouraging independence. People who have graduated to to off-campus living can also return for activities such as Saturday cafe; courses on travel, foreign languages, cooking, sex-education, medical and psychiatric problems, issues in community living and adjustment, etc. It is situated in a small pleasant cottage and is staffed by an educational specialist, a social worker, and a psychologist.

The director of West Eck expressed concern that over 80% of Bethel's patients have been referred from distant places, far from their families. He felt strongly this should not be the case. He also felt strongly patients should be treated as much as possible in downtown Bielefeld.

The Homeless:

Homeless persons are a special concern of the Bethel institutes. About 10% of Bethel's 2,500 places are for this population. They are not called homeless here, but rather "socially handicapped." Quellenhof, a timbered spacious coverted farmhouse has been used for this purpose since 1904. It's occupants, mostly 50 years of age or older, live in 110 single and 15 double rooms. They are served by a staff of 45, including 20 social workers. In another residence for the homeless, Wilhelmsdorf, 6 social workers serve 100 residents. Many have substance abuse problems and are referred for appropriate treatment for that, including psychiatric treatment and 12-step programs. A popular gathering place is the cafe, an alcohol-free zone that employs some of the men. Many others have slots in the ubiguitous attached workshops.

Pastor Brauner, the director is an "old fashioned" social worker, who believes in living amidst his charges with his family.

Mr. Brauner is heavily committed to his work. In Bielefeld he is on the prison board, amongst his civic activities. He also networks with the 10 other Bethel institutes serving the homeless. He has visited the U.S.A. When visiting a new city, he first goes to the prisons and shelters. He says this tells him the most about a city.

Another facility at Bethel is an intake point for the homeless. Here they can stay for up to three months, to reflect on their lives, what they want for themselves, what help they need. There is no pressure to work during this time. By the end of three months, they must make a choice and leave. The long-term facility of Quellenhof, which does include a work program, is one of the options.

A program social worker does outreach for those placed in downtown Bielefeld; the recidivism rate is 50%. The oldest resident is 95, residing here since his release from jail 20 years ago. Residents are not coerced into treatment here. They are self-referred having heard the reputation of the place, or they are referred by social service agencies to whom they have come for help.

The intake conference includes a M.D. and a social worker. An annual spring concert is a special event this facility plans for the wider community. It draws 1000 attendees.

Germany has fewer homeless than the U.S.A. due to these factors: a better social safety net of financial supports, including assistance to prevent evictions. Another significant factor is that Germany has not deinstitutionalized its chronic mentally ill.

The Workshop System:

The aim of the workshop system is to implement the founder's dictum that "happy, useful work is the best medicine." In fact, it is believed that a good working situation does lessen the need for psyhotropic medications. The aim is to provide working or workshop opportunities for all.

Bethel has a large central workshop with 750 places, mostly producing woodwork, weaving and other fabric work, as well as industrial piecework. In this building the stamp business is located. In addition, practically every residence we visited has it's own workshop. In addition, there are smaller enterprises such as the toyshop, the department store, the craft sales shop, the auto repair shop, etc.

The nature of the work lies along a continuum, beginning with a constructive activity that helps one participate within a group and organize one's time. This is occupational therapy. Occupational training teaches productive skills and habits, and allows the person to earn some income. Patients are paid in proportion, productivity, and at the higher scales associated with near full-time employment, They pay some of their room and board on the one hand, and earn retirement and health insurance on the other. For many handicapped persons, it will be impossible to find suitable employment in the competitive sector, so full employment at a Bethel enterprise becomes a permanent job.

The workshops are mostly self-paying but require subsidy because of the low productivity of some handicapped workers. German law requires that companies employing over 25 people have a set-aside of

6% of places for handicapped workers. In lieu of this, they can make a payment to a fund which subsidizes sheltered workshops.

Since it is hard for Bethel enterprises to be truly competitive, they have tried to locate special niches. One niche is to serve the Bethel community itself, offering convenience of location, good quality,, and drawing on Bethel loyalty. Special niches include the stamp collecting business, bookbinding, and the manufacture of musical instruments.

Finally, some of the Bethel workshops are art therapy in nature--some are psychodynamic art therapy with an art therapist. Some of the work is art as therapy--providing materials and encouraging opportunities for self-expression to natural, or "naive", artists. Often one sees this work made into paper for gift wrappings, or made in the print shop into postcards for sale. It seems that no work of art is unappreciated or wasted.

Cost and Financing:

As a "social market economy" under the tenet "as little government as possible, as much government as necessary", West Germany strives to provide a basic social safety net of health and employment insurance. Such supports are not considered charity, but part of a system of social solidarity. The system includes child benefits, rent supplements, welfare for the needy, health and disability and accident insurance and pensions for the aged. The unemployment rate, however, is high, between 8 and 10%. This is at least partially offset by unemployment insurance which pays 68% of the last net wage, for one year for younger workers and up to 2 1/2 years for older workers. Afterwards, "unemployment support" continues paying up to 58% of the prior wage.

The total annual budget for all of Bethel's institutes in 1989--9,000 staff, 6,000 patients, plant and facilities--was $290 million. Forty-five percent of this, $120 million - came from daily rates for patient care, funded by a mix of private and public health insurance. The second largest income source was operational earnings from workshops and enterprises: 28% of the income, $79 million. A further 6% - $17 million - came from the public fund for handicapped workers' sheltered workshop. The third largest income source was private contributions raised by the fund raising department. Most contributions are small donations from a large contributor base. Four hundred thousand people receive publication, "Bethel Messenger", which highlights Bethel programs and shows how money is productively spent. Contributions accounted for nearly 9% of the budget, $24 million. The remainder of the income, in increments of 2-4% each, came from rental income from staff housing, public school allowances from public funds, public funds for hospital capital expenditures, and various miscellaneous categories.

Bethel has a capital debt of $96 from low-interest public loans which it has used to help finance its' ever present aim of providing home-like environments for patients.

Examples of per-diem costs are acute hospital (Gilead) $180, the Rehoboth geropsychiatry facility, $120; the two-year intensive psychiatric rehabilitation program (Pniel) $70; $40 daily for the facility for homeless (Quellenhof).

All patients receive $75 monthly from public funds as a basic allowance for personal use. In addition, they have the possibility of earnings from their workshop activities, at the rate of $3.60 per hour (less for the long-term homeless).

Institution and Community:

Bethel is a large institution that is simultaneously a true community. Persons with mental illness are marked in some sort of way. We don't want them to be, but they are. They may look physically different, or act somewhat strange in ways, or they may feel an inner estrangement from themselves and others. In past years we "institutionalized" such persons, meaning we crowded them together in dehumanized places that were little more than warehouses. In the past 25 years, we tried to remedy this, but for the majority of patients, we merely institutionalized them in reverse, onto the streets. Institutionalization and de-institutionalization are just two sides of the same coin.

Most advocates want to include the mentally ill in community. "Community" means shared interests, mutual goals and helping, common concerns, contact, communication. It means availability of life's vital ingredients--family and friends, leisure and recreation, physical activity, homelike housing, creative outlets, cultural and educational enrichment, choices, learning, and loving, producing and earning, spirit and celebration. We must make these attributes accessible to the mentally ill, in addition to their medication and therapy.

Location is of importance, but of secondary importance. Some individuals want, need and benefit from being part of a cluster of similar individuals in proximity to needed services. For others, being dispersed and diluted is the better solution.

"Institution" is not anathema, if it is an organized framework that makes true community possible.

As Bethel has shown, even a very large institution does not need to be institutional, as long as local programs are free to develop their own character and respond to local needs. On campus and off-campus can all be part of the same network. The similar community and the larger community are interconnected - "with one another together".

Summary:

The Bethel Institutes serve a large number of patients, nearly 6,000, under the aegis of a single institution, while preserving a sense of homelike environment and a deep caring for each patient. The term "community" much better describes Bethel than does the term "institution".

Some of the caring impetus comes from its foundation by a pastor and still today this influence is felt. Some 10% of the staff are ecclesiastics. The philosophy is that each person, no matter how handicapped, has worth; more than that, has gifts for the rest of the community. Nothing is wasted.

Finding outlets for these gifts is a central philosophy. Outlets include workshop productions and art expressions.

The physical environment is a important therapeutic agent, and careful attention to plantings, grounds, architecture, individual and group spaces has created a healing physical environment. The beautiful land resource is utilized to the fullest.

At Bethel's largest campus the remarkable mix of 40% patients and 60% staff and families has been achieved, due to a mix of the Bethel commitment, attractive below-market housing and good schools.

The Bethel community is self-contained, with its residences, therapies, places of work, and shops. It is also open to the community, with students of all ages, and shared celebrations, art exhibitions, and, of course, financial contributions.

Workshops are carefully planned, well-managed and are an important source of self-esteem income, for the patients. For a large majority of patients it is felt that, due to the high unemployment rate, mainstreaming is unrealistic. However, for smaller groups of patients, this is being attempted.

Workshops are also productive for the institution. Sales generate nearly one-third of the income. For most patients, Bethel is home. No one is forced to leave. However, increasing efforts are going into supported apartment and group living in center city for those patients who would prefer mainstreaming.

"Miteinander", together with", means staff working collaboratively with patients, as "co-workers", it means patients with patients, staff patients and staff with larger society, including legislators, contributors and supporters, the local community in the widest sense.

TRAINING

Mr. DIXON. Thank you for your testimony, Doctor.

The first point you made, did you mention something about what $4 million could do?

Dr. SOREL. Yes.

Mr. DIXON. What page is that? I tried to find that first point, and I couldn't follow it in the testimony you handed out.

Dr. SOREL. Page 2, paragraph 3.

Mr. DIXON. OK. Can you talk about that again? I mean, just in your own words.

Dr. SOREL. Sure. I think what we are talking about is that in the Public Law 621 there was moneys allocated that never arrived, and if you could check into it, it would be very helpful because an example of what it could do with that money is 100 professional staff.

At the moment, as I alluded earlier in my testimony, there is a 25 to 30 percent understaffing under current configuration. This would be a tremendous boost in improving the quality of care and providing very much needed services for the public system.

Mr. DIXON. Dr. Washington, do you happen to know if any moneys are provided in Mr. Natcher's bill, the Labor, Health and Human Services appropriations bill, this year?

Dr. WASHINGTON. What he is referring to are the training dollars.

Mr. DIXON. Right, but I think that would normally be in Mr. Natcher's bill.

Dr. WASHINGTON. The amendments to Public Law 98-621 which are being proposed by Mr. Dellums would include $4 million for training funds.

Mr. DIXON. So your testimony is really anticipating and urging that Congress approve Mr. Dellums' bill?

Dr. SOREL. Right.

Mr. DIXON. Do you support this?

Dr. WASHINGTON. Oh, yes. There is also a provision there to use part of the capital money to develop housing.

Mr. DIXON. And the $4 million in Mr. Dellums' bill more specifically would be used for what, Dr. Washington?

Dr. WASHINGTON. Well, as he pointed out, when the District did not receive the money for the training program, it had to absorb it and take funds out of operating expenses. Because that was done, that money is not available for other things like the hiring of staff, so if the Federal Government determines that it will support the training program, that will free up the money to be utilized for other purposes, principally hiring of staff.

Mr. DIXON. So not receiving this money has impacted your hiring?

Dr. WASHINGTON. Yes.

Mr. DIXON. More specifically, how have you had to cut back?

Dr. WASHINGTON. The training program in fiscal year 1988 cost $3.8 million, so that was $3.8 million that was not available. Of course with inflation it has grown.

Mr. DIXON. Would that money go toward hiring nurses or security people or full-time physicians?

Dr. WASHINGTON. It would go to hiring—we have shortages across the board. The largest shortage is in nursing. After that would be the specialty medical professions like medical technologists, then security personnel would be high on the list, and some other maintenance people. Physicians are actually not the largest shortage category, although they are in that category. Pharmacist, almost all of the medical professions.

We would still be faced with the problem, however, that is salaries are not necessarily competitive.

Mr. DIXON. Mr. Gallo?

Mr. GALLO. How large is St. Elizabeths?

Mr. DIXON. You mean land mass or——

Mr. GALLO. Physical size.

Dr. WASHINGTON. Over 100 buildings. I think about 300 acres.

Mr. DIXON. It is a very large facility.

Dr. WASHINGTON. It is huge. I don't want to be contentious about this. However, many of the things that are being suggested could be done on the east campus. The population of St. Elizabeths now is 1,400, less than 1,400, which must be compared to when it was 7,000 people. So when the city is suggesting that it might be able to consolidate on the east campus, freeing up the west campus for other uses, it really is logical that it should at least explore that. And that is the process that we are in now.

Mr. GALLO. Are many of those buildings so bad that they do not meet safety codes?

Dr. WASHINGTON. Almost every building. In fact, the money that was given to us was given to us to bring the buildings up to code. Just about every building on the west campus would not meet life safety code, and so whatever was determined to be done with it, if it was for any kind of patient care——

Mr. GALLO. In some cases would it be cheaper to tear it down and rebuild?

Dr. WASHINGTON. The problem you would have then is a lot of those buildings, if not most of them, are under historic preservation regulations.

Mr. DIXON. How much money over how many years did Public Law 98-621 provide for restoration or renovation?

Dr. WASHINGTON. $26.7 million.

Mr. DIXON. Over how long?

Dr. WASHINGTON. It was a lump sum given at the time of transfer.

Mr. DIXON. You are working on that?

Dr. WASHINGTON. What you are hearing is they don't want us to use any of it for administrative offices.

Mr. DIXON. Yes; I understand. But how much of that money has been spent?

Dr. WASHINGTON. Only about $4 or $5 million of it.

Mr. DIXON. So the issue is now whether you consolidate or spread out?

Dr. WASHINGTON. Well, we had already determined that we would consolidate on the east campus which would allow the city the ability to determine without hindrance what it wants to do with the west campus. Obviously, given the current economic state, the city is going to consider all kinds of uses for the west side, including commercial development.

To the extent that we cannot consolidate, we do inhibit the city from doing other things with the west campus.

Mr. GALLO. Is it my understanding that the west campus is leased from the Federal Government?

Dr. WASHINGTON. The east campus was given and the west campus is on a lease.

Mr. GALLO. So any further development on that would have to be, obviously, approved by the Federal——

Dr. WASHINGTON. That is right, by you. The Mayor has until the end of fiscal year 1991 to submit a proposal that I assume would go to this committee for use of the west campus. At that time Congress would decide whether that use was consistent with its own intentions and then give the west campus to the city.

Mr. GALLO. What is the length of the lease?

Dr. WASHINGTON. The end of fiscal year 1991.

Mr. GALLO. 1991, so you are under the gun, then.

Dr. WASHINGTON. In that amendment we have requested a 2-year extension of the transfer. My assumption, in fact, in discussions with the Office of Business and Economic Development, they are planning to ask for an extension of the lease as well because they won't be ready to make a proposal at that time.

Mr. GALLO. There have been some distractions, I know.

Dr. WASHINGTON. Yes; one last point, and that is our biggest problem is, as has been pointed out, with the unavailability of affordable housing, and so what is important to us in the amended version of the bill that you have there is the provision that would allow us to use some of that capital money to develop housing for the population. That would then allow us to reduce the census to the extent that we have not been able to so far.

Mr. GALLO. Mr. Chairman, if I could just——

Mr. DIXON. Sure.

Mr. GALLO. In the housing end, would that be the conversion of existing buildings or would that be new construction?

Dr. WASHINGTON. Both.

Mr. GALLO. And what percentage?

Dr. WASHINGTON. I am not sure. I would have to get back to you on that.

Mr. GALLO. How many individuals?

Dr. WASHINGTON. Four hundred.

Mr. GALLO. So it would be 400 housing units?

Dr. WASHINGTON. Yes; and we project that we would need about $14 million. This would allow us to use $5 million of that $26 million. We are also right now developing a bond issue with the city's support.

Mr. DIXON. Thank you, Dr. Sorel. Thank you very much for appearance here today.

Dr. Washington, thank you for staying with us through the testimony on St. Elizabeths Hospital.

GEORGETOWN BRANCH RAIL LINE

STATEMENT OF VIRGINIA GADDIS, CITIZEN'S PLANNING COALITION

Mr. DIXON. Next we have Virginia Gaddis. Please come up and have a seat. Ms. Gaddis, you are representing the Citizens Planning Coalition, and I notice that you have a prepared statement. Your statement will be submitted in its entirety for the record. If you could summarize and just tell us in your own words what the issue is.

Ms. GADDIS. You might look at this map. This is an abandoned railroad track. It has been through abandonment proceedings with the ECC. It was a freight rail. Since that time there have been requests for appropriations to the Congress to purchase that right-of-way.

The right-of-way is more or less in three segrnents. Up here Montgomery County has considered it a priceless acquisition. They have bought it from Silver Spring. They have purchased it from Silver Spring to the District line. From the District line to George town there is now an application in for appropriations of $7 million.

The Congress did give $4 million last year to purchase that. There are two—the one group would like to see that become a bicycle trail, and there is another group that thinks it is wasteful to throw away a railroad track. I personally am with the latter group.

I am also a bicyclist, but I think the bicyclists should not be looking to the railroads for their territories since the railroads are already pressed enough.

This is a viable set of rails, and we do incidentally, the coalition does back the appropriation to the National Park Service to purchase that, but we are hoping that everyone will see the importance of the fact that Montgomery County wants to build a rail trail, both a rail and a trail from Silver Spring to Bethesda.

Bethesda, they can't really look south of Bethesda until knowing that the District—not knowing what the District will do about it.

If they knew the District would think rail, they would certainly be interested in this connection from Bethesda to Georgetown. This is the problem. I think what we want is a timing thing going here where the rails would be retained until such time as Montgomery County finishes its section.

There are a couple of little lawsuits holding things up up there, but the ICC thinks they are on firm ground so far with maintaining the importance of the rail there.

Mr. DIXON. Miss Gaddis, let me interrupt you. I thought you were encouraging Congress to acquire this right-of-way.

Ms. GADDIS. No; that wasn't it. Well, I am encouraging them, yes, to provide the appropriations for the National Park Service to own that right-of-way, that is what I am saying.

Mr. DIXON. Then later you mentioned if the District would do something.

Ms. GADDIS. Oh, OK. Well, I want the District to appreciate this rail, and while I am not sure that there has been enough public—I don't think that it has been a publicized issue, in spite of our best efforts to make it that.

I think that we have to look at that very hard before we give away a viable rail. There are two groups of railroaders who are interested in working together who would like to start something on that rail almost immediately if they could.

That would serve the purpose of maintaining it, and without funds from the Government to do that. In addition, I mean, we are still looking to the appropriation from the Federal Government to the National Park Service. However——

Mr. DIXON. Does the National Park Service support the concept of the acquisition?

Ms. GADDIS. They are more interested in the trail, but that has not always been the case. It is just something that——

Mr. DIXON. Have you ever contacted Congressman Yates' subcommittee, the Appropriations Subcommittee for the Department of the Interior?

Ms. GADDIS. Yes; I have. We have a statement in there now.

Mr. DIXON. That is really the subcommittee that provides appropriations for the National Park Service. I don't know if Mr. Yates or his subcommittee would look kindly at us if we were to provide the money or direct the Park Service to acquire this right of way.

Ms. GADDIS. I think we might just assure you that we do back the appropriation for that. We are not fighting that appropriation. What we are fighting is the importance of that rail be seen at a high level of Government so that that isn't thrown away.

Mr. DIXON. Mr. Gallo.

Mr. GALLO. Is it your feeling that the rail is for freight purposes?

Ms. GADDIS. It has been a freight rail.

Mr. GADDIS. But it couldn't make it.

Ms. GADDIS. CSX chose not to do it. Another party tried to buy it for that purpose, and that is the person who now holds it as a foundation, and they have decided to help the National Park Service acquire it because of what he felt was an exorbitant price for the rail, so now he has joined with the National Park Service in attempting to have them own it.

Mr. GALLO. This is all in private ownership now?

Ms. GADDIS. But he also does look to the time when it might be a rail again. He sees the value in the long term.

Mr. GALLO. Who holds the rail now?

Ms. GADDIS. It is being held in a 1-year trust foundation. It is partly WMATA money and partly National Park Service money that is joined together in some way with this foundation in order to hold it for this year because then the appropriations from Congress would complete the $11 million.

Mr. GALLO. Thank you.

Mr. DIXON. Thank you very much for coming today, and I will contact Mr. Yates about this.

PREPARED STATEMENT

Ms. GADDIS. I would appreciate it if you would read my remarks because they are quite different from what I said verbally. They are not different in feeling or in the ideas or anything, but some how in reading it you might really gain more information.

Mr. **Dixon**. I will not only read it, I will discuss it with Mr. Yates.

Ms. **Gaddis**. Thank you.

[The statement follows:]

STATEMENT OF VIRGINIA GADDIS

One year ago we communicated on paper, with this ~~committee~~ Congress to see that a rail line connecting the District of Columbia with Maryland (three urban areas)--is not overlooked and destroyed.

The National Park Service seeks an appropriation for the right-of-way of this ICC abandoned freight line, to add it to C&O Canal Park from Georgetown to the District line.

Almost everyone has encouraged and no one objects to Park Service ownership; however, the rail is considered very important to the District of Columbia by the Citizens' Planning Coalition. The DC City Council expressed support for the bicycle trail proposed by the Crescent Trail Coalition, and for uses consistent with the Comprehensive Plan, which includes rail under "open space."

We, the Planning Coalition, believe it is necessary to protect this set of tracks with explicit language as the appropriation is made, or the rail will be lost to the area as a transportation supplement. Crescent plans to remove tracks and ties, and asphalt the trail. The District cannot entertain endless automobiles. It needs to use the alternatives already here--an expensive resource in place, to provide access to this city. This rail connects Georgetown with Bethesda. Montgomery County is connecting Bethesda with Silver Spring.

We are watching the exodus of long time governmental and private organizations many looking to be near METRO lines "rail access" as such.

It is clear the District METRO system has been a great success and needs to be enchanced by peripheral additions of available short-line rail such as this. Activity on the rail could be started as recreational, historic, by Georgtown Branch Railroad Inc., without further funding if the land is acquired by Interior through appropriations. It would be able to schedule trips in the very near future as excursion and scheduled service. This line would not compete with METRO, but would supplement it as a private operation (non-profit) on government land (if appropriated).

It is interesting that public monies (payments from WMATA to Interior) were the funds used to cement the "temporary public use" of this rail-trail for this year until appropriations could be actualized (Interior subcommittee appropriations)(seven million) to complete the purchase by National Park Service from the Georgetown Branch Foundation. It is uncertain how the $840,000 WMATA*NPS funding is interfaced with Kingdon Gould's benevolent creation of a fund (Foundation) to arrange to hold this valuable land for Interiors' purchase. The public money certainly follows the public interest.

The Council of Governments appears to have no mechanism for ~~citizens~~ D.C. participation in transportation decisions. And none for railroad planning outside METRO. It is setting up (now) a Maryland advisory group. Not only does no District Advisory transportation group function there, no rail planning is done outside of present WMATA plans while rail abandonments and new plans impacting on rail seek a place to be heard in this area. This is not "comprehensive, coordinated or continuing" as mandated for regional planning.

We watched Ethyl gasoline author a full page ad in the Washington Post June 19 suggesting bicycles are not the proper alternative in this or any American area; ("new gas formulas are").

Actually cyclers are a wonderful alternative in this or any area; and it is a very good idea to foster interim trail use on abandoned rail lines (as has been the basis of the Trail Act; to save the rails).

However this should not pit present would-be rail operators against trail-rights seekers except as the trail users can also use the corridor without inhibiting its rail potential, or except as cooperative corridors are apparent. Car-bike corridors would work wonderfully well if examined. Rail should not have to fight other auto alternatives for its own turf. All effort should be made to place rail into use (with some assurances of meeting public basic transportation needs).

Since 1985 I have been following this matter. Statements have gone to DC Department of Plans and Policy, Citizens Advisory representatives to

Comprehensive Planning; Citizens Planning Coalition; Public works budget Committees; Committees of the Whole, D.C. Council;

All asking the city to take measures to protect the rail for the future. Joint use by a trail would be acceptable and beneficial. Our problem is with the destruction of the rail as is planned by Crescent Coalition. We ask that Interior funding by appropriation be accompanied by requests for plans to keep trail separate from rail wherever possible; the jurisdiction to plot course of trail where parallel is not practical.

We the Planning Coalition, believe it is necessary to protect this set of tracks with explicit language as the appropriation is made, or the rail will be lost as a transportation option.

Crescent Coalition of Maryland has never polled its members on railroad track retention for the Crescent Trail, but actually seeks to remove the tracks ties, and asphalt the surface.

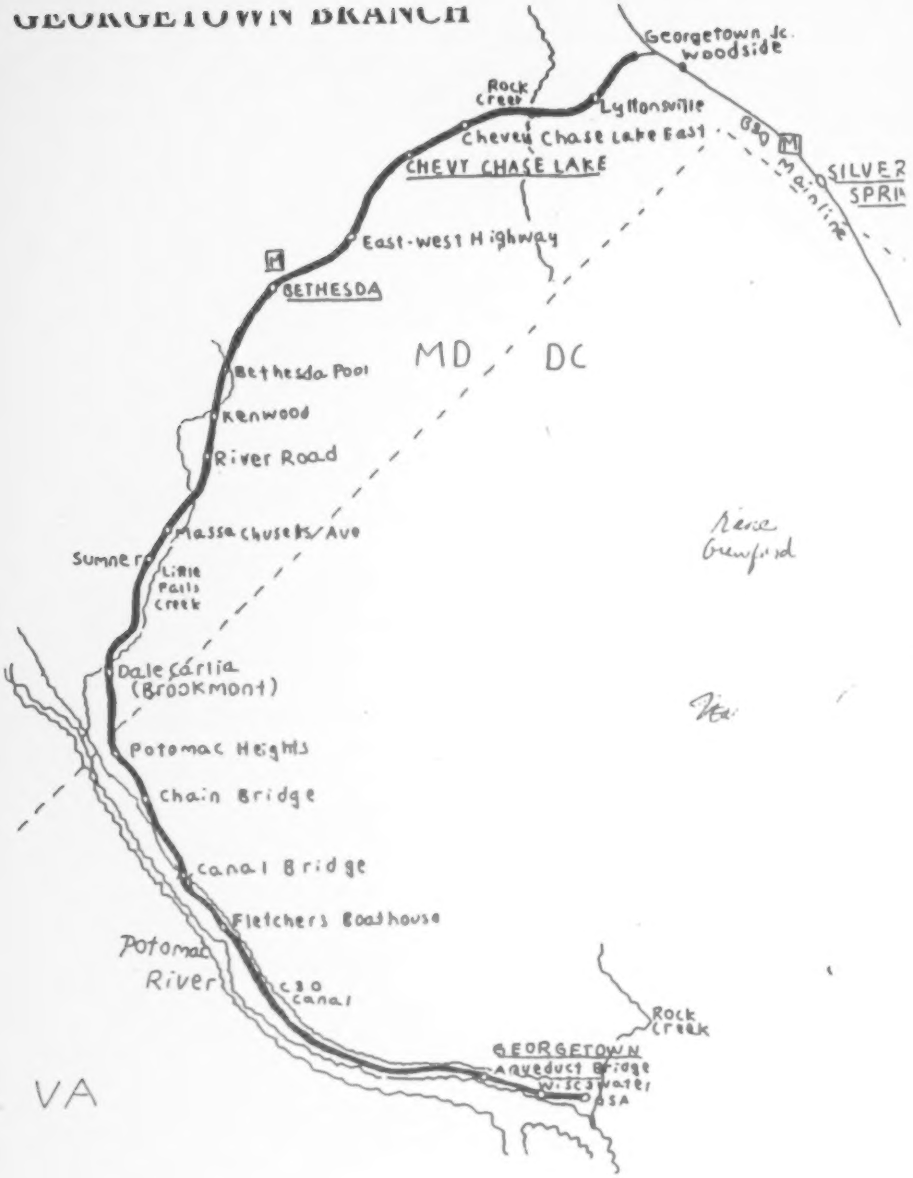
We need to mention here in our submission our hearing comments on the Comprehensive Plan, how we asked review of all rails and rail lands throughout the metropolitan area, that they not be ignored, squeezed out, abandoned, so that we have these options for transportation if they can be put to work; saved (by trails) if they cannot.

Georgetown Branch Railroad Inc., has been planning for years how this asset can be used and has resources to enable it to start a rail project here (recreational, historic, passenger moving) to be adapted as needs are evident. They are not asking for funds.

Even the American Association of State Highway and Traffic Officials is now saying any Comprehensive National Transportation program must address rail passenger service needs. If this is true nationally, it is true regionally. We think it appropriate if your subcommittee could ask the District Council to address its problems in creating a desired bicycle and hiking trail which would in part accompany the rail, without destroying desired rail tracks and corridor between Bethesda and Georgetown which can be recreational and transportation in the near future and a necessary link of rails in the future.

It should not be lost on this body that Montgomery County is planning rail (and trail) to Silver Spring. It cannot look south without District cooperation.

GEORGETOWN BRANCH


Georgetown Jc.
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Bethesda Pool
Kenwood
River Road
Massachusets Ave
Sumner
Little Falls Creek
Dalecarlia (Brookmont)
Potomac Heights
Chain Bridge
Canal Bridge
Fletchers Boathouse
Potomac River
C&O Canal
Rock Creek
GEORGETOWN
Aqueduct Bridge
Wisconsin
GSA
VA

Rene Grenford

LETTER FROM SCOTT LEONARD, ASSISTANT DIRECTOR, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

February 14, 1990

Mr. Robert Stanton
Director, National Capital Region
National Park Service
1100 Ohio Dr., SW
Washington, DC 20242

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Dear Mr. Stanton:

On January 16 the Council of the District of Columbia made certain changes to resolution 8-296, the National Park Service-Georgetown Branch Rail Right-of-Way Acquisition Resolution of 1990. References to rail, recreation and transit use of the land were replaced by the rather vague "uses consistent with the comprehensive plan." However, Councilmember Hilda Mason stipulated in the record that the new language would permit each of those uses.

Keeping open the option of future use of this land for rail purposes does not preclude its safe and satisfying recreational use by hikers and bicyclists. Nor does it represent a threat to the quality of life of Palisades residents--indeed, it benefits the entire community. In a few years, a recreational trail and a light rail line will exist side-by-side in a residential neighborhood east of Bethesda. I am confident they will find the light rail no more a nuisance than do the residents of Shaker Heights, Ohio, where a light rail line has run through a very wealthy residential neighborhood for many, many years.

We are a non-profit, non-partisan membership organization which promotes environmentally benign, energy-efficient and safe transportation alternatives to automobiles. We have 12,000 members nationwide. Last year, our District of Columbia, Maryland, Virginia and West Virginia members approved the enclosed resolution expressing our support for keeping a clear rail option open on the Georgetown branch.

Thank you for your consideration.

Very truly yours,

Scott Leonard
Assistant Director

LETTER FROM WALTER E. FAUNTROY, MEMBER OF CONGRESS

May 1, 1989

The Honorable Sidney R. Yates
Chairman
Appropriations, Subcommittee on
  Interior
B-308 Rayburn House Office Bldg
Washington, D.C. 20515-6023

Dear Sidney:

Several of my constituents have raised with me the issue of preserving the light rail capability of the Baltimore & Ohio's Georgetown Branch Rail Line, which runs between Georgetown in the District of Columbia and Silver Spring, Maryland.

I understand that the Maryland segment of this line was acquired by Montgomery County in December 1988, and that certain initiatives are already under consideration in the House of Representatives to appropriate an additional $6.6 million for the National Park Service to procure that portion of the line within the District of Columbia boundaries.

I write on behalf of my numerous constituents who are seeking to preserve the rail corridor for use as a passenger rail line, in conjunction with parallel recreational trails. The historic, educational, recreational, and economic benefits of maintaining and developing this light rail line -- in conjunction with the development of parallel hiking/biking trails -- could be most significant for District of Columbia residents and for millions of other Americans who annually visit the National Capital Area.

I commend this matter to your personal attention and urge you in your capacity as Interior Subcommittee Chair for the House Committee on Appropriations to examine thoroughly the option of preserving the light rail capacity of the Georgetown Branch Railroad. I would also appreciate any update you could provide me on the status of this issue before your Subcommittee.

Please direct any correspondence on this matter to my legislative assistant for transportation issues, Jacqueline Maki. Thank you for your consideration of my request and for your many past courtesies.

Sincerely yours,

Walter E. Fauntroy
Member of Congress

LETTER FROM KENNETH C. BITTEN, PRESIDENT, CLASSIC RAIL CARS, INC.

January 18, 1990

Chairman David Clarke
Committee of the Whole
1350 Pennsylvania Ave. NW
Washington, DC 20004

Dear Mr. Clarke:

I am writing to continue the dicussions we had earlier this year. At that time, you will recall that we reviewed the potential for operating a historic railway excursion line on the former B&O Georgetown Branch. I felt at that time, and still feel, that such an operation, in addition to being economically practical, would be of substantial benefit to the district.

Such an operation would open up this scenic area of the District to far more people than a hiking/biking trail alone would. While there is no question about the value of this corridor as a trail, those people who suggest that it be used only for hiking and biking are ignoring the tremendous resource that presently exists. The facts that a nearly operable rail line presently exists on this property, that it runs through a surprisingly scenic area and offers a magnificent view of the Palisades of the Potomac while staying clear of most residential areas, and that it accesses the Geogetown area without further contributing to traffic congestion in this busy part of the city all lend themselves towards preserving and utilizing the existing assets rather than tearing them up.

Additionally, operation of such a line will continue to attract tourists and money to Georgetown. It will generate employment in the area both directly and through its purchase of goods and services. It will facilitate the use of the C&O canal area by more people. And it will preserve a significant slice of Washington DC local history and railroad operations.

The most difficult part of making this happen is not the financing and construction of facilities. It is not the recruitment of personnel, nor the acquisition of equipment. It is not the marketing or administration of the operation. It isn't even in engineering the coexistance of the rail line with the proposed trails. It is in trying to prevent well meaning, but uninformed people from removing the rails without giving us a chance to show what can be done. This is the area in which we need your help and support. We would greatly appreciate any assistance you can provide in preserving the rail line and permitting the operations we propose to be started. Thank you for your help.

Cordially yours,

Kenneth C. Bitten
President

LETTER FROM HILDA HOWLAND M. MASON, COUNCILMEMBER AT LARGE, COUNCIL OF THE DISTRICT OF COLUMBIA

February 9, 1990

Scott Leonard
Assistant Director
National Association of Railroad Passengers
236 Massachusetts Ave., NE, Suite 603
Washington, DC 20002

Dear Mr. Leonard:

Thank you for your letter dated January 26, 1990, regarding the National Park Service-Georgetown Branch Rail Right-of-Way Acquisition Resolution of 1990. I drafted the Resolution to refer to a broad range of possible uses, including recreation and transit. However, residents of the neighborhoods near the right-of-way objected to language that referred to possible rail uses. I had it put on the record that the new language -- "uses consistent with the comprehensive plan" -- would permit recreational rail or transit use.

The Resolution has now passed the Council in its amended form. The appropriate body to which you should raise your concerns is the National Park Service. I believe that the Park Service has a public participation process that helps it determine the use or uses to which it will put land that it owns or manages.

Thank you for your interest and concern.

Sincerely,

Hilda Mason

Hilda Howland M. Mason

ELLINGTON BRIDGE SAFETY BARRIERS

STATEMENTS OF:

GEORGE S. COLYER, CITIZENS COMMITTEE FOR THE ELLINGTON AND TAFT BRIDGES

PETER ESPENSCHIED, COMMISSIONER, ADVISERY NEIGHBORHOOD COMMISSION, WARD 3C

PHIL MENDELSON, COMMISSIONER, ADVISERY NEIGHBORHOOD COMMISSION, WARD 3C

RANDI RUBOVITS-SEITZ, M.D.

PREPARED STATEMENT

Mr. **Dixon**. Next we have George S. Colyer.

Mr. Colyer is with the Citizens Committee for the Ellington and Taft Bridges.

You have a prepared statement, Mr. Colyer?

Mr. **Colyer**. Yes, sir; actually this is a summary of our citizens position. There are other people who follow me who are going to talk in more detail. I would just like to introduce myself. I am George Colyer. I am an urban planner by profession.

I live in Adams Morgan. I would also like to recognize that Mark Brown, executive assistant to Frank Smith, who is our council member, is here to observe.

Our concern today is the fact that in House Report 101-493 language appeared vis-a-vis the D.C. supplemental budget for fiscal year 1990. We are concerned that similar language will be put in the committee report for fiscal year 1991 budget.

We view this basically as a home rule issue. We think we have gone through an admirable democratic process to weigh the various issues, and basically at that point I would like to turn it over to Peter Espenschied, who is the next speaker. He has brought Dr. Rindi Rubovits-Seitz.

[The statement follows:]

STATEMENT OF GEORGE COLYER

1986 installation was temporary.—The rails were erected as an "interim solution." The Executive intended that "the effectiveness of the new railing will be carefully evaluated * * * following these discussions a decision will be made on the best means of permanently addressing" the suicide issue.

Effectiveness/deterrence.—The rails have not deterred suicide attempts. There have been two suicides since the "barriers" were erected. There have also been at least four attempts, the most recent being April 10, 1990.

Effectiveness/statistically.—The number of suicides in the three years before high publicity resulting from the barrier controversy, compared with the three years afterward, are identical; there were no more suicides before the rails (1981-1983) than after the rails were erected (1986-1988).

Effectiveness/diversion.—If the rails merely divert suicides to another location, they are ineffective. A 1987 DHS report showed that jumps off the nearby Taft Bridge went from one in 1985 to five in 1986. The Taft Bridge has become a regular jumping site, and the not-too-distant Glover Bridge has become a jumping site, for the first time, subsequent to the erection of the Ellington rails.

Cost.—The rails have to be removed as part of the contract work; any "cost" of removal would be solely in terms of FHwyA reimbursement. DPW now states that cost as $172,000 but in 1986 the court found that the cost of erection was $150,000. The obligation for FHwyA reimbursement, for this temporary project and after 4½ years of use, is arguable.

Moreover, any "cost" calculation should include the erection of barriers on the Taft and other nearby bridges (e.g., Glover and Klingle). The barrier proponents are demanding rails on the Taft as part of the forthcoming renovation (Glover to follow in a few years). Thus, while removal of the Ellington rails might result in a $150,000 FHwyA reimbursement, retaining the rails more probably will result in additional $172,000 expenditures each for the Taft, Glober, and other bridges.

Cost of rescues.—The rescue of suicide attempters is now more difficult and time consuming because of the barriers. A rescuer may have to climb over the fences to grab a jumper; equipment must be brought to bend the rails so that a jumper can then be pulled back to safety.

Public hearings and meetings.—Congress has asked for a public hearing on this issue. Since the erection of the barriers there have been ten hearings or meetings, not including numerous ANC meetings (ANCs, 1C, 1D, and 3C).

Trial: 1986.
HPRB: 5/20/87.
Comm. Fine Arts: May 1987.
Mayor's agent: July 1987.
Community workshop: 2/18/89.
Meeting with Mayor: 3/16/89.
Community meeting with Mayor: 4/10/89.
Meeting with Mayor: 4/26/89.
Comm. Fine Arts: 10/19/89.
HPRB hearing: 12/13/89.

Home Rule.—This is not a federal issue. What the barrier proponents have sought from Congress they failed to obtain from either the Council or the Mayor. Every area civic association and ANC has demanded removal of the rails. When Judge Wertheim ruled that the barriers had been erected illegally, he ordered the Mayor to make a proper determination. That has now happened.

Mr. DIXON. Why don't all of those people who intend to testify on the Ellington Memorial Bridge come up. We will hear all of you at this point in time.

All right. We have Peter Espenschied. Mr. Espenschied, you were here on this issue and several other issues last week. We also have Phil Mendelson?

Mr. MENDELSON. Yes, sir.

Mr. DIXON. Would you identify yourself?

Dr. RUBOVITS-SEITZ. Randi Rubovits-Seitz.

Mr. DIXON. You are the woman that Mr. Colyer referred to?

STATEMENT OF RANDI RUBOVITS-SEITZ

Dr. RUBOVITS-SEITZ. Yes; my name is Randi Rubovits-Seitz. I am a psychiatrist. I am board certified and in private practice. I live in the Woodley Park neighborhood.

After my basic residency training in psychiatry, I did a 2-year fellowship at the National Institute of Mental Health, working with very seriously mentally ill patients, for the primarily depressed and bipolar affective disorders after I did an additional 2-year fellowship in psychotherapy at the Washington School of Psychiatry.

So my training and interests have been in both the psychology and psychological management and the pharmacotherapy of the seriously mentally ill. In addition to private practice, I have worked for over a decade at clinics such as the D.C. Institute of Mental Hygiene where I have been a staff psychiatrist for 12, 13 years.

My purpose is not to give you additional data. I think you gentleman have quite a bit of data, but to express a couple of concepts about suicide and suicidology, which I think might help inform your thinking about this issue of the barriers. One important distinction is the difference between suicide attempters and suicide completers.

Research has shown that there are two very difficult populations of people. Very little can deter a suicide completer. These are the people who are intent on ending their life. What makes a person intent on ending his life? There is most often two predominant factors, and utter loss of hope.

We have all seen how people can suffer tremendous pain, psychological and physical pain, and loss, and all kinds of devastation to their life. If they have some hope that either there is some purpose to their suffering, that their suffering will be relieved, that there is some reason for it, and there is some outcome that they can look forward to.

A lot of times hope and connection to people are very intertwined. Connection to people doesn't just mean the physical objective other individuals in your life, but the connections to people in your mind. You may have lost loved ones through death, but those people aren't lost to you.

They are very much mentally images, mental presences, whereas others who may have a lot of loving family around them feel so-called lonely in a crowd. They really don't have the connection, the human connection, that bond.

The people who are completers generally have lost, blown through mental illness, various processes of mental illness those internal connections to people. The closest image I could think of was like if you were in a space shuttle and on an extravehicular activity and that umbilical cord was blown and how you would feel drifting off with no connection to humanity, but even that doesn't capture because you haven't had the history of illness and damage and abuse and torment.

So the completers usually are people without hope and without people connections. I think if anything those phones on the bridge come closer to a useful strategy use they say, here is a way to connect with somebody and here is somebody who can do something.

Mr. DIXON. Are there presently phones on the bridge or is this a suggested alternative?

Dr. RUBOVITS-SEITZ. Well, they are there on the Talt Bridge, but from what I have heard they take a while to get a response. The other category of people are the suicide attempters. Now, suicide attempters are not generally looking to become suicide completers.

The attempt is the end in itself, whether it is for attention, most often attention, most often this is a way of saying, hey, I need help. How do I get it? Who is out there? Who is listening? A lot of people who need help obviously can't pick up a phone and call a clinic.

We are talking about people who don't have those skills but who are not wanting to actually die. Their strategy is to make a statement in a very dramatic way that will draw attention to themselves.

Attempters, then—some people make multiple attempts, but many of them do then back off from attempts with appropriate treatment. So those are two very distinct groups. The data shows that the completers are not deterred from completing the act.

They may be deflected. They may go somewhere else, to a different bridge. If there is no other bridge available, a different method, perhaps, but those determined to suicide will suicide. Not in an impulsive fashion. It may look impulsive because you have the last few seconds and then they are over, but a lot of thought and planning went into that.

It is not something that is just a 1-second impulse in somebody who has never had that thought before. They might not have spoken about it. I hear people telling me, well, I didn't tell you how I was feeling before because I didn't want anybody to stop me.

So you might not hear about it, but it is not that they hadn't been thinking about it for quite some time. So the idea that the fence can prevent a completer from an impulse is irrelevant, doesn't have any meaning in the psychology of the situation.

The attempters, on the other hand, are looking for ways to make a dramatic statement. The attempters are the ones who climb the fence, hang on to the barriers, who wait until someone notices them, some call the police, and the police respond.

The completers don't. The completers will be over in 2 seconds.

Mr. DIXON. I don't want to cut you off, doctor, but you have 2 more minutes.

Dr. RUBOVITS-SEITZ. I will take 30 seconds.

The one possible conclusion from this is that rather than deterring suicide, those fences may attract attempters. Anybody have any questions?

Mr. DIXON. You are saying that those fences may attract people rather than deter them?

Dr. RUBOVITS-SEITZ. Not attract people to suicide per se, because there is an easier way around the corner, but it is a very dramatic, a very visible way for an attempter, whose goal is not to end their life, but to make a clear, loud statement, I need help and I want help.

Mr. DIXON. All right. We will call on Mr. Mendelson. You are a commissioner with the ANC.

STATEMENT OF PHIL MENDELSON

Mr. MENDELSON. Thank you very much, Chairman Dixon and Mr. Gallo. I am Phil Mendelson, vice chairman of Advisory Neighborhood Commission 3C and I am past chairman of the commission. Our commission represents approximately 20,000 residents in five neighborhoods in Northeast D.C.

Since 1984 we have been opposed to the erection and the retention of the stalled suicide barriers on the Duke Ellington Memorial Bridge. Our commission area extends from Woodley Park on the Southeast McLaine Gardens on the Northwest.

The Rock Creek and Zoological Parkways form much of our border, and so there are a number of bridges within our ANC. Those bridges are the Klingle Valley Bridge, the Duke Ellington Memorial Bridge, the William Howard Taft Memorial Bridge, and the Charles C. Glover Memorial Bridge.

Each of these bridges are very high. For only one of these has the department of public works placed or proposed to place suicide barriers. Although our constituents have been steadfastly opposed to the Ellington Bridge suicide barriers, some for aesthetic reasons, our own opposition to them has been premised on the belief that the suicide rails represent a gross misallocation of public moneys and misdirection of resources toward the suicide problem.

We do not see the so-called barriers as reducing suicides, but rather as redirecting them. They have been redirected to the Taft and other bridges. For the first time there has been a jump off the Glover Bridge since the Ellington barricades went up.

What we see is the prospect of all of our bridges barricaded, and still the suicide problem will not be reduced. In the packet I have distributed, it is about 20 pages, with my testimony is an article from the American Psychological Association Monitor concerning the effect of gun laws on suicides in Ontario, Canada.

I will quote just a part. Eliminating guns may only result in the selection of another method that is equally lethal.

Some people, if denied one silent method of killing themselves, will choose another. This conclusion is similar to the one stated by Dr. Donald McKnew in the affidavit, also included in the packet. Dr. McKnew, an area psychiatrist, states, "nothing in my practice of medicine nor in the research literature with which I am acquainted would lead me to believe that passive metal barriers on bridges, including specifically the Duke Ellington Bridge, would prevent suicides.

Suicide is nearly always a premeditated art and nearly always involves planning. A 1985 article by Washington Post columnist, Ben Forgey quotes a letter from another professional.

Dr. Herbert Modlin of the Menninger Foundation in Topeka, KS, states that, "The proposal for bridge barriers might reduce the incidence of suicidal leaps, but the probability is that it won't reduce the incidence of suicides in the District of Columbia by one iota."

The point here is that suicide prevention is not simple. As we have previously testified, this was before the Historic Prevention Review Board 2 years ago, the fence says something to people or maybe proclaims it loudly. This fence tells people, we don't care what your problems are, why you may want to end it all, just don't do it here. Take it some place else, preferably out of the District and better still, out of sight so we don't have to hear about it.

And so now we are shocked that the Congress of the United States has decided to hear the appeal of the barrier proponents who have lost before the city's elected Mayor and elected City Council after 4 years of public hearings and public debate.

We can appreciate your concern for life. We share it, but there are no easy answers. You particularly are going through this with the national debate over abortion. Yet with abortion you tell the right-to-lifers that Congress should respect home rule, treat the District as it does the States, and leave local solutions to local officials.

You jeopardize that position when you then turn around and interfere with how one city bridge is to be renovated. The right-to-lifers will see this contradiction and use it to further their national agenda. We ask you as friends of the District to leave alone this local issue.

Mr. DIXON. Everybody uses home rule when they want to, don't they? This gentleman came up a week ago on three issues. He used the home rule argument on one and then said, but on these other two issues you ought to penetrate home rule. Everybody throws that in when it is their ox, right?

Mr. MENDELSON. It has been mentioned a number of times today that I have heard.

Mr. DIXON. Right. It has been mentioned on both sides a number of times today.

Mr. MENDELSON. My position and the position of our ANC——

Mr. DIXON. Your position is that we should never, ever interfere and your ANC has never appeared before this committee or any other committee urging the Congress to do something, and so you are a hard-line home ruler. You would never appear before Congress and ask them for anything.

Mr. MENDELSON. Wrong. Two years ago I was here concerning a national park.

Mr. DIXON. Yes, exactly. But today you mention this home rule issue, don't you?

Mr. MENDELSON. The distinction, I think, is the Federal interest.

Mr. DIXON. I know everyone can make a distinction, but you were here on a prior occasion urging Congress to intercede in an issue.

Mr. **Mendelson.** I admit it. I think it was a Federal interest because it was a national park.

Mr. **Dixon.** All right. Continue.

Mr. **Mendelson.** I have to be candid about that.

Mr. **Dixon.** And I appreciate your candor. I am not criticizing it. All I am saying is as a matter of principle, everyone including the District, and the Congress uses the home rule issue very selectively. That is my only observation, and Mr. Espenschied is a classic example appearing here less than 2 weeks ago and on the same day within the same half hour, he said don't pierce home rule, then he takes another breath and says, but on these two issues, you should pierce home rule. So, you know, it is just up to the judgment of the committee. I don't know why people throw in this home rule issue.

Mr. **Mendelson.** Well, I throw it in here because I appreciate what this committee—I believe this committee has been part of the debate on the abortion issue, and I don't like what is happening with the abortion issue in the District of Columbia. Those are my own views, not the commission's.

Mr. **Dixon.** Nor do I.

Mr. **Mendelson.** I am afraid that the position that you and others have taken is further jeopardized by this using the suicide issue, the life issue on the bridge to justify on the one hand intervention, whole on the other hand——

Mr. **Dixon.** I didn't mean to interrupt your testimony. I just kind of get it up to here with the home rule issue, and I happen to know that you appeared before.

Mr. **Mendelson.** Well, I am honest about it, and I have thought about it. I am an elected official as an ANC commissioner, and home rule is important to me, and so——

Mr. **Dixon.** When it is on your side, and that applies to everyone. I am not singling you out. Home rule is important to you when that argument can buttress what you want to do.

Mr. **Mendelson.** I will accept it on all sides, and I will note that Chairman Dave Clark of the City Council, who has not been helpful to us in the barrier issue in the past, he is the only council member I know who has resisted speaking in criticism of them.

Nonetheless, he wrote and wrote to you——

Mr. **Dixon.** Absolutely. He has also supported language changes this year that have major impact, in my opinion, on the policy of the D.C. government. And he and the Mayor want to put those language changes into a bill.

Mr. **Mendelson.** Maybe I should go ahead with my testimony. The point is claimed that there must be an evidentiary hearing to find out why the so-called barriers are no longer necessary in the public interest. To quote a phrase from the 1987 decision of the Mayor's agent, that term is taken from the District's Landmark Protection Act, "necessary in the public interest," and its meaning is limited to the criteria of that act for permitting demolition or alterations to landmarks.

In 1987 the Mayor's agent heard the request of the Mayor. This was the Mayor's agent, hearing the request of the Mayor to allow the suicide barriers to remain on the bridge, a hearing that was ordered by the D.C. Superior Court as a result of legal challenges.

The Mayor's agent was required to balance District preservation standards against aspects of the public interest. In this narrow context, it is not unreasonable that the Mayor's agent would find that the barriers met the Landmark Act's standard for alterations, but that decision was not dispositive of the broader public health issues. It did not claim to be.

As the Mayor promised in 1985, the erection of the barriers would be temporary, to determine their efficacy. The Mayor has considered this further, as ordered by the court, as promised by him initially and as warranted by the government's mandate to promote the public health and welfare. He has now gone beyond the narrow issue of historic landmark protection.

As a result, the Mayor has decided the barriers should not be reinstalled during the bridge renovation. Please don't interfere with this. Accordingly we respectfully ask that you repeal the prohibitions added to the recent Dire Emergency Supplemental Appropriations Act.

[The statement follows:]

STATEMENT OF PHIL MENDELSON

I am Phil Mendelson, Vice-Chairman and immediate past-Chairman of ANC 3-C. We represent approximately 20,000 D.C. residents and five neighborhoods in Northwest D.C. Since 1984, we have been opposed to the erection and retention of the so-called suicide "barriers" on the Duke Ellington Memorial Bridge.

Our Commission area extends from Woodley Park on the southeast to McLean Gardens on the northwest. The Rock Creek and Zoological Parkways form much of our border, and so there are a number of bridges within our ANC. They are:

Klingle Valley Bridge (Connecticut Avenue), which was renovated within the past 10 years; despite its great height, the Department of Public Works did not install suicide barriers.

Duke Ellington Memorial Bridge (Calvert Street), which is now beginning renovation.

William Howard Taft Memorial Bridge (Connecticut Avenue), for which renovation plans have now been proposed. These plans do not include suicide barriers, consistent with DPW statements since 1986.

Charles C. Glover Memorial Bridge (Massachusetts Avenue), which is contemplated for renovation sometime this decade.

Although our constituents have been steadfastly opposed to the Ellington Bridge suicide "barriers," our own opposition to them has been premised on the belief that the suicide rails represent a gross misallocation of public monies and misdirection of resources toward the suicide problem.

We do not see the so-called "barriers" as reducing suicides, but rather, as redirecting them. They have been redirected to the Taft and other bridges. For the first time, there has been a jump off the Glover Bridge -- since the Ellington barricades went up.

What we see is the prospect of all of our bridges barricaded. And still the suicide problem will not be reduced. In the packet I've distributed with my testimony is an article from the American Psychological Association Monitor concerning the effect of gun laws on suicides in Ontario, Canada:

> "More stringent gun laws may reduce the incidence of homicide, but should not be expected to reduce the suicide rate, according to Charles L. Rich, professor of psychiatry at the State University of New York at Stony Brook. ..."This natural experiment shows that eliminating guns may only result in the selection of another method that is equally lethal," said Rich. "Some people, if denied one violent method of killing themselves, will choose another."

This conclusion is similar to the one stated by Dr. Donald McKnew in the affidavit also included in our packet. Dr. McKnew, an area psychiatrist states:

> "Nothing in my practice of medicine nor in the research literature with which I am acquainted would lead me to believe that passive metal barriers on bridges, including specifically the

> Duke Ellington Bridge in Washington, D.C., would prevent suicides. Suicide is nearly always a premeditated act and nearly always involves planning. I have never seen a single reputable scientific study to suggest that passive site-specific approaches, such as metal barriers, have prevented a single suicide, nor am I aware of any such case from my own practice of medicine or my conversations with other professionals in suicide prevention.
>
> "If it were possible to erect barriers across all places in the metropolitan area from which leaping suicides might occur, including all buildings above the fourth floor and all bridges, monuments, metro stations and other structures, it is possible that the incidence of leaping suicides would be reduced. However, even in such a case, it is highly unlikely that the overall incidence of suicide would be reduced."

A 1985 article by Washington Post columnist Ben Forgey quotes a letter from another professional:

> "Dr. Herbert Modlin of the Menninger Foundation in Topeka, Kansas states that 'the proposal [for bridge barriers] might reduce the incidence of suicidal leaps, but the probability is that it won't reduce the incidence of suicides in the District of Columbia by one iota.'"

The point here is that suicide prevention is not simple. As we have previously testified: "The fence says something to people, or maybe proclaims it loudly. This fence tells people: We don't care what your problems are, why you may want to end it all -- just don't do it here. Take it someplace else, preferably out of the District, and better still, out of sight, so we don't have to hear about it."

And so now we are shocked that the Congress of the United States has decided to hear the appeal of the barrier proponents -- who have lost before the city's elected Mayor and elected City Council after four years of public hearings and public debate.

We can appreciate your concern for life. We share it. But there are no easy answers. You, particularly, are going through this with the national debate over abortion. Yet with abortion, you tell the right-to-life'ers that Congress should respect Home Rule, treat the District as it does the states, and leave local solutions to local officials. You jeopardize that position when you then turn around and interfere with how one city bridge is to be renovated.

The right-to-life'ers will see this contradiction, and use it to further their national agenda. We ask you as friends of the District to leave alone this local issue.

There has been a fair and full process, including two public hearings before the Historic Preservation Review Board, three public meetings of the U.S. Commission of Fine Arts, many community meetings (one chaired by the Mayor) in 1989, and a trial. For our opponents to now call for another public hearing is unnecessary and only delaying.

The point is claimed that there must be an evidentiary hearing to find out why the so-called "barriers" are no longer "necessary in the public interest" to quote a phrase from the 1987. That term is taken from the District's Landmark Protection Act (D.C. Law 2-144), and its meaning is limited to the criteria of that act for permitting demolition or alterations.

In 1987, the Mayor's Agent heard the request of the Mayor, to allow the suicide "barriers" to remain on the bridge, a hearing that was ordered by the D.C. Superior Court as a result of legal challenges. The Mayor's Agent was required to balance strict preservation standards against aspects of the public interest. In this narrow context, it is not unreasonable that the Mayor's Agent would find that the "barriers" met the Landmark Act's standard for alterations.

But that decision was not dispositive of the broader public health issues. It did not claim to be. As the Mayor promised in 1985, the erection of the "barriers" would be temporary, to determine their efficacy. The Mayor has considered this further, as ordered by the court, as promised by him initially, and as warranted by government's mandate to promote the public health and welfare. He has now gone beyond the narrow issues of historic landmark protection.

As a result, the Mayor has decided that the "barriers" should not be re-installed during the bridge renovation. Please don't interfere with this. Accordingly, we respectfully ask that you repeal the prohibitions added to the recent Dire Emergency Supplemental Appropriations Act.

Thank you.

LETTER FROM JOHN E. TOUCHSTONE, DIRECTOR, DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEC 26 1989

Ms. Patricia Wamsley, Chair
Advisory Neighborhood Commission 3-C
2737 Devonshire Place, N. W.
Washington, D. C. 20008

Dear Ms. Wamsley:

I am writing to advise you of the steps the Department of Public Works is taking concerning the proposed suicide prevention railing on the Duke Ellington Memorial Bridge. While we may not agree on the interim or even the final plan for resolving this matter, I appreciate the interest you have shown in an issue that is of concern to the community.

As you may be aware, there have been six suicides at this location this year, three of these in recent weeks. I believe that the District must take immediate steps to minimize the use of this bridge in this way. Consequently, I am directing the contractor to resume the originally planned work as part of an interim solution to the problem. Our analysis of several alternative suicide prevention devices, including nets, indicates that this is the only effective device that is temporary, in that it can be installed and removed without adversely affecting the bridge structure.

The effectiveness of the new railing will be carefully evaluated during the next twelve months. Also, during that time, Departmental staff, in cooperation with the Department of Human Services' Commissioner of Public Health, will explore in more detail the feasibility of other means of suicide prevention, such as special lights, nets, and mental health services. Also, during this period, we will not continue the design of such measures for the Taft Bridge. At the end of a year, we will report back to the community on the effectiveness of the barriers and on the feasibility of other alternatives, especially any that may be more aesthetically desirable. Following these discussions, a decision will be made on the best means of permanently addressing this difficult situation on the Ellington Bridge. I also will then make a determination of the best process to use in considering suicide prevention measures on the Taft Bridge.

I hope that you can appreciate the reasons for my action in this matter. I also hope that you will join with me and other Department of Public Works' staff as well as the Department of Human Services in reviewing this situation in the coming months so that the best possible permanent solution for all interested parties can be determined at the end of the evaluation period.

Sincerely,

John E. Touchstone
Director

4024 Randolph 3661

P.D. 251 Rev. 1/78

METROPOLITAN POLICE DEPARTMENT
WASHINGTON, D.C.
EVENT REPORT

1. TYPE OF REPORT ☐ OFFENSE ● INCIDENT

2. COMPLAINT NUMBER 187-966

3. EVENT CLASSIFICATION Sick Person To Hospital

4. EVENT LOCATION Duke Ellington Bridge Southside

5. BEAT 6S 6. DIST 2D 7. RA

8. DATE/TIME OF EVENT 4-10-90 Bet 1358-1433

9. DATE/TIME OF REPORT 4-10-90

10. RADIO RUN RECEIVED ☐ NO ☐ YES TIME 1358

11. ● PUBLIC PROPERTY ☐ PRIVATE PROPERTY

12. DESCRIBE LOCATION Bridge

13. WHERE ENTERED N/A

14. TOOLS, WEAPONS USED N/A

15. METHOD Suicide

16. COMPLAINANT/MISSING PERSON/FIRM 1. John Doe SEX/RACE/DOB B/M

16. COMPLAINANT/MISSING PERSON 2. N/A SEX/RACE/DOB

17. HOME ADDRESS unk

18. HOME PHONE

17. HOME ADDRESS

18. HOME PHONE

19. BUSINESS ADDRESS/SCHOOL unk

20. BUS. PHONE

19. BUSINESS ADDRESS/SCHOOL

20. BUS. PHONE

21. ADDITIONAL MEANS TO CONTACT COMPLAINANTS OR REPORTING PERSON

22. REPORTED BY A Randolph

23. RELATION TO COMPLAINANT Officer

24. ADDRESS 3320 Idaho Ave NW

25. PHONE NUMBERS Hm: Bus 282-0070

26. SICK/INJURED PERSON 1. John Doe 2.

27. DESCRIBE INJURY Suicide

28. WHERE TAKEN/BY WHOM D.C. General/Amb 2

29. ● ADMITTED ☐ RELEASED ☐ ADMITTED ☐ RELEASED

30. PROPERTY CODE: (S) STOLEN (R) RECOVERED (L) LOST (I) IMPOUNDED (E) EVIDENCE (F) FOUND (O) OTHER (V) VEHICLE FROM WHICH THEFT OCCURRED

31. PROPERTY BOOK AND PAGE NO

CD	ITEMS		SER. NO./OP. I.D. NO.	COMP. VALUE	AGE	MPDC VALUE

YEAR	MAKE	MODEL	COLOR	BODY	TAG/STATE/YEAR	VIN NO

32. EVID. TECH. NOTIFIED/CSES #

33. INVESTIGATOR NOTIFIED 623 ERA/236-2D

34. SUPERVISOR NOTIFIED

35. TELETYPE NOTIFIED

36. TOTAL VALUE

37.	RACE	SEX	AGE	HEIGHT	WEIGHT	EYES	HAIR	COMPLX	SCARS	HAT	COAT	JACKET	PANTS	SHIRT
☐ SUSPECT ☐ MISS. PERS.	B	M	20's											
☐ SUSPECT ☐ MISS. PERS.														

38. NARRATIVE: DESCRIBE THE EVENT AND STATE POLICE ACTION TAKEN

R-1 reports that C-1 described as A B/m 25-30 150-175 lbs, wearing, Dk. over-coat, gray pants AND white tennis shoes, WAS observed to be hanging; outside of the protective fence; on the southside of the above location. C-1 WAS MAKING threats, to jump off the bridge, because he had MADE a

☐ See Missing Person Information On Reverse ● See Continuation On Reverse

39. REPORTING OFFICER BADGE/ORG ELM 3661 2D

40. SECOND OFFICER BADGE/ORG ELM

41. TELETYPE NUMBER

42. STATUS ☐ OPEN ☐ UNFOUNDED (EXPLAIN IN ITEM 38) ☐ SUSPENDED (EXPLAIN IN ITEM 38) ● CLOSED (IF CLOSED BY ARREST LIST UNIT AND ARREST NUMBER) Note: if closed by arrest attach P.D. 252

43. REPORT REVIEW OFFICER

44. SUPERVISOR Sgt BADGE/ORG ELM 5525/2D

45. REVIEWER

46. DISTRIBUTION

MISSING PERSON INFORMATION

1. COMPLAINT NUMBER
187-896

2. PROBABLE CAUSE OF ABSENCE AND DESTINATION

3. PHYSICAL/MENTAL CONDITION- DIABETIC, SUICIDAL, ETC.

4. IF SUBJECT HAS RUN AWAY OR LEFT HOME BEFORE GIVE DATE AND WHERE LOCATED

5. DESCRIBE ARTICLES OF JEWELRY WORN AND IDENTIFICATION CARRIED

6. CLASSIFICATION ☐ CRITICAL ☐ NON-CRITICAL

7. CLASSIFIED BY

8. MISSING PERSONS SECTION NOTIFIED

9. PARENT/GUARDIAN'S NAME | 10. ADDRESS | 11. HOME PHONE | 12. BUS. PHONE

9. PARENT/GUARDIAN'S NAME | 10. ADDRESS | 11. HOME PHONE | 12. BUS. PHONE

CONTINUATION REPORT

13. NARRATIVE CONTINUED

Criminal out of himself, by taking money from an employer. : After several Additional threats to jump; C/I was grabbed and subdued by off. Lewis and Sgt. Thomas

The following units were on the scene:

FootBeat-8 Off. Lewis

Cru 236- Sgt. Thomas

Cru 623 - ERA David Schumm, M. Brooks,

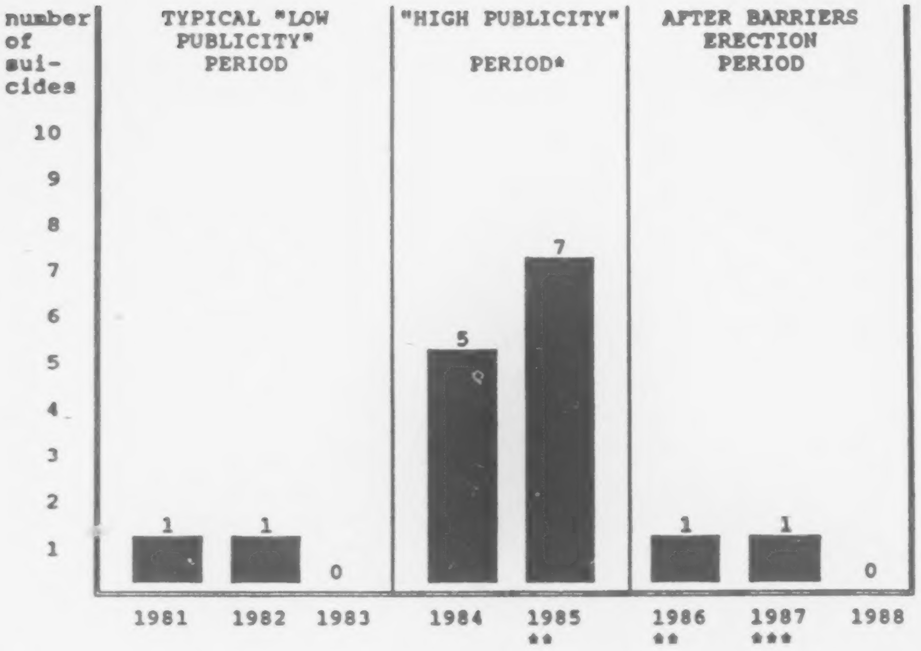
M. Brooks of SOD ERA Team - Negotiator/Hostage stated that after interviewing John Doe, John Doe was a threat to himself, by means of being suicidal and wanting to die.

Capt. R. White: SOD/ERA

Park Police: O. Tondle on scene - Park Police ERA Team

14. REPORTING OFFICER BADGE/ORG ELM 3661 | 15. SECOND OFFICER BADGE/ORG ELM | 16. SUPERVISOR BADGE/ORG ELM

FIGURE 5
NUMBER OF SUICIDES FROM THE DUKE ELLINGTON BRIDGE



SOURCES: D.C. Commissioner of Public Health
D.C. Medical Examiner's Office

* Period of the campaign to have the barriers erected, and the resulting controversy.

** The 1985 figure includes one 1986 jump before the barrier completion in January.

*** The 1987 figure includes jumps shown as "Cathedral Avenue Ramp" (under Ellington Bridge) in the D.C. Medical Examiner's statistics, and as "Duke Ellington Bridge" in the Metropolitan Police Department records.

Attachment 4

Affidavit of Donald H. McKnew, M.D.

1. I reside at 1127 Crest Lane, McLean, Virginia and maintain offices at 2033 K St. NW, Washington, DC.

2. I maintain a private practice of psychiatry in the Washington area, specializing in the treatment of depression. I am also a professor of psychiatry at George Washington University Medical School and a research psychiatrist at the Laboratory of Developmental Psychology at the National Institute of Mental Health. I received my undergraduate degree from Yale University and my MD from Johns Hopkins University. I performed my medical residency at the Columbia Presbyterian Medical Center in New York. I am the author of a book on child and adolescent depression, as well as chapters in the Comprehensive Textbook of Psychiatry and the Basic Handbook of Child Psychiatry. I am also the author of chapters in eight other medical books, as well as more than 70 articles in professional journals. I am an active member of all major national and local psychiatric societies.

3. I have 25 years of experience in treating suicidally-depressed individuals. During that time, I have treated several hundred children and adolescents who were discussing suicide, as well as more than 100 adults.

4. I have personal knowledge of the matters set forth in this affidavit, unless as otherwise noted.

5. Nothing in my practice of medicine nor in the research literature which which I am acquainted would lead me to believe that passive metal barriers on bridges, including specifically the Duke Ellington Bridge in Washington, DC, would prevent suicides. Suicide is nearly always a premeditated act and nearly always involves planning. I have never seen a single reputable scientific study to suggest that passive site-specific approaches, such as metal barriers, have prevented a single suicide, nor am I aware of any such case from my own practice of medicine or

my conversations with other professionals in suicide prevention.

6. If it were possible to erect barriers across all places in the metropolitan area from which leaping suicides might occur, including all buildings above the fourth floor and all bridges, monuments, metro stations and other structures, it is possible that the incidence of leaping suicides would be reduced. However, even in such a case, it is highly unlikely that the overall incidence of suicide would be reduced. An overall reduction in the number of suicides using the approach of blocking access to the means of suicide would require not only the barrier construction just noted, but also the removal of firearms, which are the leading method of suicide among males, from the hands of the population. It also would require the removal of all dangerous drugs, which are the leading cause of suicide among females, from the hands of the population, as well as the removal from the hands of the population of rope, knives, razor blades, poison, and other popular devices for committing suicide. Nationally, leaping ranks sixth as a means of committing suicide, usually accounting for less than five percent of suicide deaths. This is also approximately the ranking and proportion for the District of Columbia in any given year.

7. Since I testified in Federal District Court on Sept. 17, 1985, on the inadvisability of these metal barriers from a mental health standpoint, I have been approached by numerous other professionals in the suicide prevention field. All of them have reinforced the opinions I expressed there and am expressing here. None disputed the points I was making. A number of these professionals discussed the Ellington Bridge barriers as a kind of "bad civic joke."

8. Had any of these health care professionals been consulted on methods to reduce the incidence of suicide at the Ellington Bridge and overall in the District of Columbia, we would have offered a different set of suggestions. The one option that I would characterize as the "genius idea"

for the bridge site would be the placement of direct suicide hotline phones on the bridges, such as has been done with great success on the Hudson River Bridge in Dutchess County, New York. This option in effect solves the problem of placing trained professional suicide intervenors at a place where persons contemplating suicide might come. Among the other approaches to the problem that are also promising in the light of existing scientific studies are improved high school education programs, to deal with the growing rate of suicide among adolescents, better education of physicians to diagnose symptoms of severe depression among their patients, and strengthening the professional staffs and extending the hours of operation of suicide hotlines.

9. When a contagion problem of suicides exists, such as the clustering of suicides over a relatively short period of time at a bridge site, the problem is best dealt with in the same manner as adolescent cluster suicides in specific populations, such as high schools. That is, through the options recommended above, as well as a change in the type of publicity that the suicides receive. Either the publicity should be diminished altogether, or it should depict the suicides in light of the overall suicide picture in the metropolitan area and the need for depressed individuals to seek professional help. Such publicity should always include the address and phone numbers of places where professional aid is available.

Donald H. McKnew Jr. M.D.

Donald H. McKnew, M.D.

City of Washington)
District of Columbia) ss

Subscribed and sworn to before me this 2nd day of January, 1985.

Anne A. Rozo

NOTARY PUBLIC

My Commission expires June 14, 1990

LETTER FROM WALLACE J. COHEN, ACTING ADMINISTRATOR, DEPARTMENT OF PUBLIC WORKS, GOVERNMENT OF THE DISTRICT OF COLUMBIA

April 21, 1988

Ms. Patricia Wamsley
Chairman, ANC 3C
2737 Devonshire Place, N. W.
Washington, D. C. 20008

Dear Ms. Wamsley:

Thank you for your March 30 letter expressing ANC 3C's views concerning the rehabilitation of the Duke Ellington Memorial Bridge. It is encouraging to note that although ANC 3C is not completely satisfied with the safety barriers erected on the bridge, you are generally in support of the rehabilitation work.

You have noted that the public safety barrier will be removed during the construction period. This is correct up to a point. During design, it was decided that the support for both the barrier and handrail posts on each side of the bridge needed strengthening to insure that out-of-control vehicles could not sever the support. In order to accomplish this, extra anchorage is required as shown in the materials you received. To do this work the safety barrier must be removed along that portion of the handrail where the anchorage is being added. It is the Department's intent that the contractor re-attach that portion of the safety barrier that was removed at the end of the work day in order to maintain protection on the bridge throughout the night.

The bars that were bent by the Fire Department Rescue Squad to rescue the person that had climbed on the outside of the barrier were repaired January 15, 1988, shortly after the event occurred.

Again, we appreciate you letting us know of your Commission's concerns. We believe that the rehabilitation of the Ellington Bridge will prevent further deterioration, improve safety and preserve the traffic carrying capabilities of this important structure.

Sincerely,

Wallace J. Cohen
Acting Administrator

Attachment IV

REMOVAL OF SAFETY FENCES FROM "DUKE" ELLINGTON MEMORIAL BRIDGE

BACKGROUND:

The "Duke" Ellington Memorial Bridge, which carries Calvert Street, N.W., over Rock Creek Park, was constructed in 1935. The condition of the bridge has deteriorated to a point that a major rehabilitation of the entire structure is required. To accomplish this major rehabilitation, the District issued an advertisement for construction bids on April 17, 1989. Bids were received on

June 5, 1989. The contract documents associated with this advertisement did not include provisions for removal of the existing safety fence.

Subsequent to receipt of bids, the decision was made to remove the existing safety fence along with several other modifications. The modifications to be made include:

a. Remove the existing safety fence.

b. Widen existing sidewalks to better accommodate pedestrian use, and adjust lighting for compatibility.

c. Place appropriate hotline equipment on Ellington Bridge.

d. Add large commemorative plaques, informational banners and a music system.

e. Raise existing handrail by six (6) inches, and modify and extend the existing row of metal spikes by an appropriate amount. Also, the stone coping at the lookouts and on the bridge approaches will be adjusted for compatibility.

Since bids for the rehabilitation were received prior to approval of these changes, a construction change order must be issued to accomplish this work.

CURRENT STATUS:

A notice-to-proceed has been issued for the major rehabilitation of the "Duke" Ellington Memorial Bridge as of February 12, 1990. At this time, the contract contains no provisions for removal of the existing safety fence or the other modifications listed above. This additional work will be added to the contract by formal change order.

CONGRESSIONAL REPORTING REQUIREMENT:

In accordance with Congressional reporting requirements of House Report No. 101-186, page 7, the work order to the Contractor to accomplish the change order work, including removal of the existing safety fence, will not be issued until sixty (60) days after this formal notification to Congress on this matter. In addition, prior to the issuance of a directive to perform the change order work, including removal of the existing safety fence, the additional work must be approved by the Federal Highway Administration. Therefore, it is expected that the issuance of the referenced work order will not occur until about June 1, 1990 which will be well after the sixty (60) day notice to the Congress.

ESTIMATED COST:

The estimated additional cost required for removal of the existing safety fences, including proposed modifications defined above, is $500,000.00 A breakdown of this cost follows:

Estimated cost of proposed modifications

D.C. Funds:	$180,000.00
Federal Funds:	$320,000.00
Total:	$500,000.00

Cost of existing safety fences

D.C. Funds:	$ 57,000.77
Federal Funds:	$172,193.30
Total:	$229,194.07

The District is obligated to reimburse the Federal Highway Administration (FHWA) in the amount of $172,193.30 upon removal of the existing safety fences. This is the level of participation provided by FHWA in the erection of the safety fences in 1985-86. It is expected that reimbursement to FHWA will occur within 30 days of issuance of a work order to remove the existing fence. Reimbursement will be in the form of a reduction in federal obligation authority available to the District for the fiscal year in which the work order to remove the existing safety fence is executed.

No federal participation in the cost to remove the existing fence will be available.

FIGURE 6

ONE EXAMPLE OF THE PERSONNEL, TIME, AND UNITS OF THE POLICE AND FIRE DEPARTMENTS NOW NEEDED TO RESCUE AN ELLINGTON BRIDGE SUICIDE ATTEMPTER

DECEMBER 31, 1987

POLICE : 7 Personnel -- 6 HOURS 7 MINUTES

FIRE : 26 Personnel -- 1 HOUR 42 MINUTES

Police Scout Car #86
Police Scout Car # 104
Police Cruiser #242
Police Wagon #106
Fire Engine Company # 21
Fire Truck Company #14
Fire Battalion Chief #4
Fire Rescue Squad #4
Fire Truck Company # 10
(Aerial Platform)
Fire Ambulance #12
Fire Medic Unit #1

SOURCES: Metropolitan Police Department
D.C. Fire Department

According to residents of the area, this pattern has occurred on several other occasions. The rescue process is more difficult and time-consuming now than before the barriers were erected because instead of pulling an attempter off the ledge, emergency personnel must now handcuff an attempter (who has already surmounted the barriers) to the barrier bars. Then the bars must be pried apart by a machine. Then the emergency personnel must risk their own lives pushing and pulling the attempter through the pried-apart bars.

Obviously, these personnel and this equipment are not available for other emergencies and duties during these prolonged rescue efforts.

HOW OTHER CITIES HAVE TREATED BRIDGE SUICIDES RECENTLY

1. San Diego. The city chose to deal with suicides from the Coronado Bridge by placing signs near and on the bridge advising of the availability of suicide counselling services, and placing direct suicide hotline phones on the bridge. Contact: Jim Larson, 619/237-6678.

2. Dutchess County, New York. Direct suicide hotline phones have been installed on a Hudson River bridge which has been used for suicides. Contact: Dr. Kenneth M. Glatt, Commissioner, Dutchess County Department of Mental Health, 914/485-9700.

3. San Francisco. Suggestions that barriers be installed on the Golden Gate Bridge were explicitly rejected by a special commission in the early 1970's. Television cameras monitor pedestrians, and bridge personnel are trained in suicide prevention. Contact: Bruce Selby, Golden Gate Bridge and Transportation District, 415/921-5858; 415/457-1920. *

4. New York City. Suggestions that suicide barriers be erected on the Brooklyn and George Washington Bridges have been rejected in favor of funding suicide prevention programs. Contact: Dorothy Minor, NYC Landmarks Commission, 212/553-1100

(* Note: Ellington Bridge barrier/proponents often cite a study of attempted suicides from the Golden Gate Bridge ["Suicide Capital? A Study of the San Francisco Suicide Rate"] and the study's author, Richard Seiden, as support for the validity of the barrier approach. This is unfounded. The article deals with suicide attempters who, through direct human intervention, were prevented from jumping and who presumably received subsequent professional care. The Golden Gate Bridge has never had any "suicide barriers".

[From the American Psychological Association Monitor, Dec. 1987]

Ontario gun law fails to reduce suicide rate

By Jacqueline Swartz

TORONTO

More stringent gun laws may reduce the incidence of homicide, but should not be expected to reduce the suicide rate, according to Charles L. Rich, professor of psychiatry at the State University of New York at Stony Brook.

Rich presented data from a three-year study that relied heavily on unpublished data from the coroner's office in Toronto. He surveyed suicide rates four years before and four years after 1978, when the province of Ontario passed a stringent gun control law. The law prohibits possession of handguns, and many were collected as a result, according to Toronto's deputy coroner, James Young.

After 1978, the rate of suicide by gun dropped among men from 29 percent to 13 percent. But the rate of suicide, 15 per 100,000, stayed approximately the same, and the total number of suicides rose slightly. There were more suicides by hanging, jumping in front of trains, and other easily accessible violent means.

"This natural experiment shows that eliminating guns may only result in the selection of another method that is equally lethal," said Rich. "Some people, if denied one violent method of killing themselves, will choose another."

Women generally choose more passive means of suicide, such as drug overdoses, although Rich noted that the overall female rate of suicide by gun rose between 1970 and 1980. There has also been a disproportionate increase in gun suicides among 20- to 24-year-olds in recent decades, he said, but substance abuse suicides in that age group have been increasing as well.

A British study showed that when carbon monoxide was removed from household gas, the number of suicides by gas as well as the total number of suicides decreased. But the drop was only temporary, as those bent on suicide began using other means to take their own lives, he said.

Similarly, a study in San Diego found that 23 percent of people hospitalized for psychiatric disorders who later committed suicide used guns, compared to 55 percent among the rest of the population. He attributed this to California's gun control law, which prohibits ownership of guns by people who have been in mental hospitals.

While it's important for families of mentally disturbed people to remove guns from the house, said Rich, "It's just as important to keep a close watch on the patient. If a gun is not available, they could try another lethal method."

Coroner Young noted that cultural attitudes, as well as the accessibility of guns, play a role in the incidence of violence. Canadians are less inclined to view violence as a way of settling conflict than Americans, he said, noting that there are about 50 homicides each year since the law passed in Toronto, compared to 600 in Detroit.

"I'm all for gun control," he said. "But if you want to make a solid case for it, you should have the facts. Otherwise, you just give fodder to your critics. We simply can't expect gun control to influence the number of suicides." ■

Jacqueline Swartz is a free-lance writer who lives in Toronto.

MEMORANDUM FROM FRANK SMITH, COUNCILMEMBER, WARD 1, COUNCIL OF THE DISTRICT OF COLUMBIA

TO : COUNCILMEMBERS

FROM: COUNCILMEMBER FRANK SMITH, WARD Frank Smith

DATE: MARCH 19, 1990

SUBJ: DUKE ELLINGTON BRIDGE PROJECT

As you know, the Department of Public Works' budget will be voted on tomorrow. This budget includes continued funding for a Ward 1 project currently underway, and of great interest and concern to residents who live in the area.

The project, the renovation of the Duke Ellington Bridge, is an effort orchestrated by community involvement, to make the bridge a fitting tribute to the memory of the late Mr. Ellington.

Recently, attempts have been made to halt this meaningful project. I am strongly opposed and remain adamant in my struggle to see that renovation plans continue.

As time neared for the renovation of the bride, the community wanted real numbers and sought votes for and against its re-design. ANC's 1-C, 1-D, and 3-C, considered this design issue and town meetings were held, one of which was chaired by Mayor Barry.

Additionally, based on information that I received, the ANC's almost unanimously supported a different barrier design and anti-suicide approach. Several citizen groups in Adams Morgan including, Reed-Cooke, Woodley and Cleveland Parks came out in support of a new design concept. As well as the D.C. Federations of Citizens Associations.

Subsequently, a "design competition" for the bridge developed . The competition was judged by a jury of mental health experts and architects, as well as community leaders from all three ANC's. The various designs were considered at an all-day workshop, like the competition itself, was sponsored by the ANC's and heavily publicized through posters, mailings, and the local media, including the Washington Post.

The workshop endorsed the jury's selection for the bridge design -- a wonderful design, including plaques commemorating achievements in Duke Ellington's life, wider sidewalks, and many thoughtful touches to give the bridge a positive image. Many good ideas came from the Charlin Jazz Society and from Mercer Ellington, Duke Ellington's son, who served as the Honorary Chairman of the effort.

The workshop also endorsed the installation of hotline phones on the bridge, so that persons contemplating suicide would have an opportunity to speak with someone who could help them.

Further, the workshop recommended re-designing the existing handrailings enabling them to be raised higher, and small metal spikes be installed beneath and behind the handrailings to discourage climbing, sitting, or jumping.

All of the proposals, including the barrier re-design was brought back before the community for discussion. The ANC's voted to support the proposals, along with other civic and neighborhood organizations in the area. In addition, the Historic Preservation Review Board endorsed the proposals.

On Wednesday, March 14, 1990 during a Public Works Committee meeting, without advance notice, an amendment to halt the Duke Ellington Bridge Project was offered. Fortunately, this amendment was defeated.

There is a possibility, however, that a similar amendment may be introduced at the Committee of the Whole meeting on Tuesday, March 20, 1990. I need your support to defeat it.

In the past, you have stepped forward and offered your support. Many of you have given me viable solutions to the Duke Ellington Bridge re-design issue. I know I can count on you once again.

For your information, I have attached pertinent materials which will further strengthen my position and belief that this project has to move forward without further delay.

Thank you in advance for your continued support.

LETTER FROM JOHN A. WILSON, COUNCILMEMBER, WARD 2, COUNCIL OF THE DISTRICT OF COLUMBIA

July 1, 1987

Mr. Donald Murray
Director
Department of Consumer and Regulatory Affairs
614 H Street, N.W.
Room 1120
Washington, D.C. 20001

Dear Mr. Murray:

I am writing to urge the Department of Consumer and Regulatory Affairs, through the auspices of the Historic Preservation Board, to seriously reevaluate the appropriateness of the suicide barrier on the Duke Ellington Bridge. As I am sure you are aware, this barrier was erected by circumventing appropriate procedures as far as ANC/community notice and permits are concerned and was based upon the noble, yet faulty premise that it would prevent further suicides from the bridge.

Beyond the aesthetic concerns which have been raised by historians, preservationists, and concerned citizens regarding the marring of such an important landmark, this project is a misguided use of public funds. As the data will support, these barriers, and those like them in other cities, do not prevent suicides. On the contrary, a person who has reached the level of despair necessary to commit such an act will not be daunted by mere obstructions.

It is my firm belief that District funds would be better spent augmenting our present suicide prevention programs such as the 24-hour suicide hot-line, or by following the example from San Diego by erecting hot-line phones on the bridges themselves.

When this issue comes up before the Historic Preservation Review Board, I am confident that the board will give the appropriate "great weight" to the views of the affected ANC's and the community and recommend against issuing a building permit for the barrier.

Thank you for your consideration in this matter.

Sincerely,

John A. Wilson
Councilmember, WARD TWO

LETTER FROM JOHN RAY, COUNCILMEMBER AT LARGE, COUNCIL OF THE DISTRICT OF COLUMBIA

May 19, 1987

Mr. James Speight, Jr.
Chairman
D.C. Historic Preservation
Review Board
Room 305
614 H Street, N.W.
Washington, D.C. 20001

Dear Mr. Speight:

This letter is to express my support of the action taken by ANC 1C and ANC 3C to oppose the Department of Public Works application (H.P.A. number 87-377) to retain "suicide barriers" on the Duke Ellington bridge.

As you know, the D.C. Superior Court handed down a decision on March 27, 1987, stating that the Department of Public Works' installation of these barriers violated two city ordinances. The department did not give the ANCs their statutory notice of construction, nor did the department follow the Historic Preservation Board's review process.

Moreover, I see no convincing evidence that the barriers are an effective means of preventing suicide. The city has a serious suicide problem, particularly among young people, but the solution requires more and better mental health care, family counseling, treatment for drug and alcohol abuse, and other means of intervention to deal with the root causes. A barrier at a bridge is no solution at all.

In light of these factors and the overwhelming community sentiment in opposition to the barriers, I urge you to give the opinion of the ANCs great weight in rendering your final decision in this matter.

Sincerely,

John Ray
Councilmember at-Large

LETTER FROM JAMES E. NATHANSON, COUNCILMEMBER, WARD 3, COUNCIL OF THE DISTRICT OF COLUMBIA

May 18, 1987

Mr. James T. Speight, Jr.
Chairman, Historic Preservation
Review Board
614 H Street, N.W., Room 305
Washington, D.C. 20001

Re: H.P.A. No. 87-377

Dear Mr. Speight:

This Wednesday, May 20, the Historic Preservation Review Board will consider whether the "suicide fence" erected on the Duke Ellington Bridge by the Department of Public Works (DPW) in January, 1986, is consistent with the bridge's designation as an historic landmark and permissible under D.C. Law 2-144.

I am writing to ask the Board not to allow the perpetuation of an inappropriate addition to the bridge as a substitute for a truly effective anti-suicide program.

I would like to have noted in the record of the case the constituent opinion I have received on this issue over the past month or so. The affected ANC in my ward, 3-C, sponsored a public meeting on April 27 to provide opportunity for the citizens to express their views, and after a thorough airing of the pros and cons, adopted a detailed resolution opposing the fence as ineffective in its purpose of suicide-prevention and architecturally incompatible with the landmark structure. Other neighborhood groups that have studied the matter have reached essentially the same conclusion. These are: the Woodley Park Community Association, the Kalorama Citizens Association, ANC 1-C, and the Cleveland Park Historical Society. I have heard of no citizens group in support of the fence. I am further informed that about 1000 citizens who live or work near the Ellington Bridge have signed a petition calling for its restoration to its previous unbarred state.

Of course the Review Board must base its decision not on popular sentiment but strictly on the historic and architectural issues involved. Simply from a design standpoint, there appears to be unanimity: The National Trust for Historic Preservation, the D.C. Preservation League, the Art Deco Society, the Committee of 100 on the Federal City, and a number of highly respected individual architectural historians have all found the fence to be a violation of the historic integrity of the bridge.

No one to my knowledge has yet argued that the fence is architecturally compatible; the only argument I have heard advanced in favor is that the fence is necessary to discourage suicide. However, in the court case which resulted in the March 27 Order bringing this case before your Board and other D.C. agencies for public hearings, substantial evidence was presented by mental health experts to show that physical barriers in high places do not reduce the incidence of this form of suicide. Indeed, in the one year the barrier has been in place, the District of Columbia experienced a record number of suicides from high places.

The Department of Public Works is using this fact to justify its plans to erect still more barriers on other high bridges in the District. Three of these -- the Taft, the Klingle Valley, and the Massachusetts Avenue Bridge -- are in Ward 3; the first is a designated D.C. historic landmark, and the latter two are in historic districts. Should the Review Board allow the barrier to remain in place on the Ellington, it would send a signal to DPW to go forward with the fencing-off of these and other bridges -- with the consequent loss of much of the spacious, open quality now enjoyed by citizens and tourists alike, and without any compensating benefits to the public health.

However, to deny the permit is to signal the City that it must examine the suicide problem anew, giving it the serious attention it deserves, using the expertise available from the appropriate agencies (not the Highway Department of DPW) and seeking solutions with some chance of success. As an elected official charged with oversight of city management and monies, I am committed to working toward that goal.

Thank you for this opportunity to comment.

Sincerely,

James E. Nathanson
Councilmember/Ward 3

LETTER FROM HILDA HOWLAND M. MASON, COUNCILMEMBER, COUNCIL OF THE DISTRICT OF COLUMBIA

May 19, 1987

James T. Speight, Jr., Chairperson
District of Columbia Historic
Preservation Review Board
614 H Street, Northwest Room 305
Washington, D.C. 20001

Re: Application Number 87-377

Dear Mr. Speight:

I am writing to add my concerns to the record of the Historic Preservation Review Board hearing in case Number 87-377, having to do with the so-called suicide prevention barriers on the "Duke" Ellington Bridge. I believe the Board should pay close attention to community members who have pointed out several factors in favor of removing the barriers:

1) the faulty procedures which led to the barriers being installed;

2) the ample information that such barriers are not very effective in preventing suicides;

3) that such barriers require the use of government funds which could be put to much better use; and

4) the real unmet need for studying the whole question of suicide in the District of Columbia by a task force of members with suitable qualifications.

Should the barriers be affirmed as appropriate for the "Duke" Ellington Bridge, the possibility would be a demand that all of the 14 major bridges in the District of Columbia should be similarly equipped is a result to give pause, both because of the cost and because of the aesthetics, when, in fact, the barriers might be largely ineffective in preventing suicide or for any other legitimate purpose.

While much of the testimony offered with regard to the barriers on the "Duke" Ellington Bridge speaks to the ineffectiveness of such barriers and the more appropriate efforts that could be undertaken to help prevent suicide, I believe the real factors on which the Historic Preservation Review Board must make its determination on the status of the so-called suicide barriers are two: the procedure respecting ANC and other community input which were or were not followed before the barriers were put in place; and, whether or not the barriers meet the standards of historic preservation of the bridge.

I believe that if suicide prevention is an issue the appropriate place for policy recommendations on that subject would be with a task force formed for the purpose.

Sincerely,

Hilda Mason

Hilda Howland M. Mason

LETTER FROM BETTY ANN KANE, COUNCILMEMBER AT LARGE, COUNCIL OF THE DISTRICT OF COLUMBIA

May 8, 1987

Mr. James T. Speight, Jr. Chairman
D.C. Historic Preservation Review Board
614 H Street N.W., Room 305
Washington, D.C. 20001

Dear Chairman Speight:

I urge the D.C. Historic Preservation Review Board to recommend against issuing a building permit for "suicide barriers" on the Duke Ellington Memorial Bridge. The bridge, a Landmark of the National Capital, provides extraordinary views of Washington and the recent construction of the "suicide barriers" has seriously compromised these views.

I am certain that the review board will give great weight to ANC 1-C and 3C's recommendations against issuing a building permit to the D.C. Department of Public Works. Thank you for your consideration.

Sincerely,

Betty Ann Kane

Betty Ann Kane
Councilmember At-Large

[From the Washington Post, Sunday, Apr. 19, 1987]

Suicide Barriers Don't Work

Put a hot-line phone on the bridge instead.

The fences are staying up—at least for now. We're talking about those antisuicide barriers on the Ellington Bridge that were constructed more than a year ago. Now a D.C. Superior Court judge has ruled that they went up despite the city's failure to consider the objections of those who didn't want them in the first place. Judge Ronald P. Wertheim has ordered the District to follow the home-rule procedures it didn't want to bother with in 1985.

So the debate is on again, and there are two important dimensions to it. First, if the city prevails against the considerable opposition to the fences this time around, not only will the Ellington fences remain, but D.C. will presumably pursue the inexorable logic of bridge barriers. The city's chief public works engineer told the court that D.C. may place similar barriers on every city bridge from which suicides have occurred in the past 10 years. There are 14 such bridges.

Second, the city now has some evidence by which it can judge the barriers' effectiveness. We have had a de facto one-year experiment on the Ellington Bridge, for many years the city's "suicide bridge." The evidence suggests that fencing off the city's high places this way is not an effective way to help those in ultimate despair.

A year ago, The Post's Benjamin Forgey asked whether fences weren't an "easy way out" to this difficult problem because they may give "the feeling of having done something without having done much at all." Forgey's question is even more to the point now.

The Ellington's fences were completed in mid-January 1986. They have apparently moved bridge suicides elsewhere: there were suicides last year from three city bridges that had never before been used for suicides. Two persons jumped to their deaths from the Ellington Bridge despite the barriers. In all, 1986 saw a record number of D.C. suicides, a record number of leaping suicides and, in fact, a record number of bridge suicides.

Many in the mental-health profession believe that suicides, or at least bridge suicides, are premeditated actions. The evidence of the Ellington barriers suggests that erecting high fences to stop bridge suicides is to intervene too late, with too little, in the emotional crises that lead to suicides. Desperate persons appear to plan around barriers. What the city's potential suicides deserve is not a futile program of ever-more fence-building. They deserve a serious suicide-prevention program that can offer more help than they are now receiving—and before the city's bridges become a factor in their crises.

Many cities have "suicide bridges." Some, such as Pasadena, have chosen to place barriers on them. But many others, including New York, San Francisco and San Diego, which among them have five such problem bridges, have debated installing fences and have rejected them. They concluded fences were ineffective.

Instead, these and other cities have installed 24-hour suicide hot-lines on their problem bridges, antisuicide signs and increased funding for suicide prevention, among other measures. These appear to have an effect. Suicides from San Diego's Coronado Bridge, for example, have been reduced by about half. In fact, Coronado Bridge motorists have been using the bridge's accessible hot line to seek help for troubled friends and relatives.

There is no such hot line on any Washington bridge. For that matter, the suicide hot line the city does have is a part-time operation. Those who call during its off-hours hear a taped message referring them to a northern Virginia service—evidence, perhaps, of how insufficient the city's antisuicide efforts are.

The city's suicide problem and the appropriate response to it call for comprehensive reevaluation. Barrier-building may appear to be a well-intentioned act of compassion. But if Ellington's fences are ineffective, what they are really inhibiting is the development of programs that may offer better help.

—C. P. Freund and Bill Rice

contribute to City Paper, from which this article was adapted.

[From the Washington Post, Mar. 24, 1990]

Fences That Have Failed

Myles Glasgow [Close to Home, March 18] is a misinformed newcomer to the public debate about suicide prevention at the Duke Ellington Bridge over Rock Creek Park. He is correct that the issue is life, not aesthetics, but he is wrong that the iron fences are effective.

Although the eight-foot fences were erected in January 1986 to keep people from jumping, in reality they've failed. From January 1986 through 1988, at least five people surmounted them. Three jumped, including one whose fall was broken by a tree and thus lived. Is this prevention? No.

Moreover, this record is no better than the three years from 1981 through 1983—well before the erection of the rails and the attendant publicity. In 1983 there were no suicides; in 1981 there was one; and in 1982 there was one.

Some oppose the fences because they don't prevent jumpers. Others argue against them because they divert suicides rather than deter them. A D.C. Department of Human Services analysis in February 1987 revealed that in the one year after erection of the Ellington fences, suicides off the nearby Taft Bridge rose 500 percent.

The debate has raged for over five years, with three advisory neighborhood commissions, several civic associations and an overwhelming number of citizens opposed to the fences. A majority of the D.C. Council, including every at-large member except David Clarke, has opposed the barriers. Once the statistics were in, the mayor, too, joined the opposition.

John Wilson has said: "It is my firm belief that District funds would be better spent augmenting our present suicide-prevention programs such as the 24-hour suicide hotline, or by following the example from San Diego by erecting hot-line phones on the bridges themselves."

Indeed, the DHS study noted that hot-line phones on bridges have been proven effective at prevention and would cost less than $20,000 per bridge.

On the other hand, diversion gains nothing. Council member Hilda Mason has suggested that should the barriers be "affirmed as appropriate" then there would be "a demand that all of the 14 major bridges in the District of Columbia be similarly equipped." Citing the cost, she says this would be "a result to give pause."

Removal of the fences will not cost the city the $500,000 Mr. Glasgow claims. The barriers are going to be removed anyway as part of a total reconstruction of the bridge deck and parapet. Why spend more money to put them back up, considering their failure and the existence of effective alternatives?

JOSEPHINE BUTLER
PHIL MENDELSON
Vice-Chair, Advisory Neighborhood Commission 3-C
Washington

Letters should be signed and must include the writer's home address and home and business telephone numbers. Because of space limitations, those published are subject to abridgment. Although we are unable to acknowledge those letters we cannot publish, we appreciate the interest and value the views of those who take the time to send us their comments. Letters intended for publication should be addressed to Letters to the Editor.

Appendix B: Efficacy of Barriers and Hotlines on Bridges

The *Handbook of Suicidology* (Wekstein, 1977) stipulates that two types of suicidal populations have been repeatedly found to exist. The first type is comprised of suicide fatalities or suicide completers. This population includes individuals who take their own lives with the deliberate intention of achieving death in the most expedient and fatal means available.

The second population of suicidal individuals is comprised of suicide attempters. Attempters are individuals who engage in risky or self-destructive behaviors, but who do so as a function of symptoms caused by emotional disturbance, not with a clear intent of achieving a fatal outcome. When fatalities do occur among the attempter population (estimated to be between 10% and 30%), they are most often believed to be due to a miscalculation on the part of the victim (i.e., the ambulance getting caught in traffic before the stomach can be pumped, the family member arrives later than anticipated by the victim to save him or her from asphyxiation, etc.).

Suicide attempters seem to be an entirely different population altogether from completers, especially regarding their susceptibility to intervention. Epidemiological studies have generally shown suicide attempters to have had contact with mental health service professionals prior to their suicidal acts. Attempters are known to be susceptible to personal intervention after their initial attempts. Their "attempts" are primarily viewed by treatment professionals to be symptoms of emotional disturbance (e.g., Maris, 1981; Dorpat & Ripley, 1967). Completers, on the other hand, are much less likely than attempters to have ever had contact with a mental health professional.

The fatal intent distinction between the two suicide populations is an important one, because the population at which the proposed suicide barriers are directed, completers, are determined to achieve a fatal outcome one way or another (Shneidman, 1981a; 1981b; 1985). Suicide attempters differ from completers in that attempters are generally found to be motivated to achieve attention rather than death.

Some mental health professionals have argued that placing access to intervention services on bridges may provide a useful adjunct to fences and other barriers to leaping. The rationale is that suicidal people may pause to reconsider their actions when confronted by a fence. Their reconsideration might lead to reaching out for intervention if it were readily available. Unfortunately, suicide completers have repeatedly been shown in research not to have been affected by the availability of intervention services in any significant numbers (e.g., Hilton & Randolph, 1984; Maris, 1972; Kiev, 1971).

Despite the obvious differences between the two suicide populations, most of the suicide prevention literature is derived from information not on completers, but attempters. Therefore, it always remains clinical speculation as to whether attempters had fatal intent, and were indeed members of the suicide completer population. This fact challenges the validity of the vast majority of suicide intervention strategies.

The Question of Suicide Barrier Efficacy

Will bridge fences prevent suicide fatalities? Perhaps in a small number of instances they might. However, for the most part, barriers do not appear to have much potential to address the needs of either the suicide completer population or the suicide attempter population. In the case of people who are determined to achieve a fatal suicide outcome, completers, there is evidence that barriers do not deter leaps unless they are virtually unscalable. In the case of suicide attempters, fatality is not normally a goal; seeking human intervention is. Unfortunately, barriers do not offer human intervention services; people do.

The Hotline Effectiveness Question

The installation of suicide hotline telephones on bridges has been viewed as a means of making personal intervention services available to people considering a suicidal leap. Perhaps the only published study of this strategy examined a one-year period following the 1984 installation of a strategically-placed direct suicide hotline on the Mid Hudson Bridge near Poughkeepsie, New York. Although a number of suicide attempters called for help on the hotline, Glatt (1986) reported that 4 individuals leaped to their death anyway (4 deaths yearly is average for that bridge). Only one completer picked up the phone, but jumped anyway.

Summary

There simply are no published scientific data that definitively address the empirical issue of the effectiveness of bridge fences in preventing suicide fatalities. This is primarily due to the complication caused by trying to determine what a dead person did, thought, or intended at the time of taking his or her own life. Researchers can only know such things from people that behaved suicidally, but who did not, for whatever reason, die by their own hand.

A large body of data shows that intervention services can prevent some suicides, particularly with respect to the suicide attempter population. To date, studies that have examined the effectiveness of physical barriers have been inconclusive. At best when barriers make suicide a 100% physical impossibility they have been shown to eliminate suicide fatalities, but only at the particular site on which they are installed. Considering that bridge leaps account for 7 to 12 percent of all fatal suicides in the District of Columbia, the several hundred thousand dollars per bridge to install fences must be weighed against alternative preventive measures such as intervention that are likely to reach a much larger percentage of suicidal people.

Mr. DIXON. Thank you for your testimony. We do have peop here who are on the other side of the issue. I would invite them up at this time.

Mr. ESPENSCHIED. Mr. Dixon, would I——

Mr. DIXON. I thought you had given your testimony on this issue at the last hearing.

Mr. ESPENSCHIED. I am sorry.

Mr. DIXON. You didn't give your testimony on this issue?

Mr. ESPENSCHIED. I asked if I could return with responses to the matters you had raised when you questioned——

Mr. DIXON. I will give you an opportunity after I hear from the other people. And all of you can stay there.

ELLINGTON BRIDGE SAFETY BARRIERS

STATEMENTS OF:

BENJAMIN H. READ, SAMARITANS OF WASHINGTON
ANNE READ, SAMARITANS OF WASHINGTON
RICHARD GLICK, ATTORNEY AT LAW
WALTER PIERCE, D.C. RESIDENT
MYLES G. GLASGOW, ATTORNEY AT LAW
PHIL MENDELSON, ADVISORY NEIGHBORHOOD COMMISSION, WARD 3C

Mr. DIXON. Our next witness is Benjamin Read, and he is with the Samaritans of Washington. I believe these three people are with you. Why don't you take a seat over there.

All right, Mr. Read.

Mr. READ. Mr. Chairman, Mr. Gallo, may I submit my statement for the record and highlight?

Mr. DIXON. Your statement will be submitted for the record and you may highlight it. I assume the gentleman next to you wants to make some comments also?

Mr. READ. He may or may not. We will see. Mr. Richard Glick who is with me here has been providing help to the fence supporters on a pro bono basis. He is familiar with the legal situation. Mr. Walter Pierce, who is active in community affairs is at the end of the table. Mr. Myles Glasgow, sitting next to him lives in Adams Morgan and is involved with Woodley House——

Mr. DIXON. Is involved with what?

Mr. READ. Woodley House Affairs.

Mr. GLASGOW. My wife is director of Woodley House, a halfway house for people with emotional problems.

STATEMENT OF BENJAMIN H. READ

Mr. READ. We are appearing on behalf of the Committee for Public Safety at the Duke Ellington Bridge, which is an informal committee, as is the citizens for the Taft and Ellington Bridges, made up of 28 organizations which are listed on the letterhead of my statement. I am not going to recite them all, but they include really the primary health care, mental health giver institutions in the area. It includes the D.C. Mental Health Association. It includes the D.C. Institute for Mental Hygiene where Dr. Rubovits-Seitz said she had the association.

It includes the psychiatric institutes. It includes the Children's Defense Fund. It includes——

Mr. DIXON. We can see from the letterhead.

Mr. READ. With that I would just simply note because, I am obviously not a psychiatrist, that one of the groups on the Committee for Public Safety is a doctor's committees, and 17 leading psychiatrists in the area have subscribed to a statement which is attached as attachment 2 of that statement, which it really is very different in kind than the testimony you have heard.

They include presidents of the American Association of Suicidology, president of the American Academy of Child Psychiatry and other leading persons. Our position is very clear, Mr. Chairman.

It is that the supplemental fiscal year 1990 act's provision on the bridge was right. It was proper to provide evidentiary due process on a public safety issue on which the Federal interest is clear, and we urge the extension of the provision beyond the end of this fiscal year.

This is based on several points which I will make very briefly. First, we have talked about home rule. This law does not order the District government never ever to remove the fences under any and all circumstances. It says before you do so, we ask that there be an evidentiary determination as to why the very, very extensive process that was gone through in 1987 by the Mayor's agent, which was reported by a court and found that crime, as well as suicide, accidents, vandalism were part and parcel of this to persons on and under this bridge, and why that should be reversed, and asked the Mayor to come up to the Congress with a statement.

He has never done so.

Mr. DIXON. Mr. Read, I think you understand the language well. You would be best served by just stopping right there. All the language basically asks is for the Mayor to forward to both committees his rationale for making a decision. I don't know whether the committee will follow—will continue this language, but you have made your point very well.

Mr. READ. At the time of the—may I continue just two or three other things. I will condense it, I can assure you. From the time of the order to bring them down, he gave no reasons. He has since given no reasons, and this is not the executive branch of the Government.

The Federal interest, I think, is very clear. The Congress psased $172,000, which was 80 percent of the funds that put up these fences at the request of the D.C. government in 1986. They cross Federal park land. There is an enormous amount of traffic, interstate traffic which goes on and under, $320,000 additional is being asked of Federal funds as part of the $10 million project.

Mr. DIXON. To take the fences down?

Mr. READ. It is a shared jurisdictional question, obviously.

Mr. DIXON. All right. You have made your points.

Mr. READ. Right.

Mr. DIXON. We will start on the far, right.

STATEMENT OF WALTER PIERCE

Mr. PIERCE. My name is Walter Pierce. I am the founder and president of Voluntary Lakers Program, Ontario Lakers Program in Adams Morgan. We built a park at the bridge and Congress appropriated funds for us to have this in 1976.

OK. Basically this issue of whether the fence comes down or stays up becomes economic. As I view it, the rich poople in the neighborhood want the fence down. The less rich people in the neighborhood want the fence up. I personally, as a Vietnam veteran, do not want people catching the bus to the end of the line and jumping over, turning our neighborhood into a Vietnam.

At one point, I was in favor of the fence coming down until I did a transportation study where we have quite a few people in the neighborhood crossing the bridge every day to the metro stop at Woodley Park Zoo.

We need, as public officials and people who have control over Federal expenditures, to make sure at all times the safety of the public is being followed.

We do not need rich neighborhoods trying to dictate to the city or whoever about home rule issues talking about taking a fence down because they want a feeling there of some sort of European atmosphere.

As long as I live in Adams Morgan and I am a big voice in that neighborhood, I want that fence to stay up, and people with all their money might as well know that. Sure, you are educated and you train your kids in higher institutions, but us poor people want safety, and that fence should stay up.

STATEMENT OF MYLES GLASGOW

Mr. GLASGOW. My name is Myles Glasgow. I am an attorney trained at Antioch, Washington School of Law, and resident of Washington, DC, for 22 years. I am a resident of Adams Morgan a few blocks from the bridge, very close to Walter Pierce during that period.

I believe that the Federal Government is helping to build a bridge which is the No. 1 suicide bridge in the history of Washington DC, second only by Taft. In constructing that bridge with roughly $10 million, if the city takes down the fences, the Federal

Government will have created an unsafe, and unreasonably safe bridge.

There is adequate notice to the Federal Government as to the District of Columbia that this bridge is the No. 1 suicide site for bridges in the District of Columbia. Having adequate notice, ample efforts have to be taken and have been taken to make this a safe bridge.

I have provided the committees with a statement as well as graphs, which I put together from data that was compiled by the examiner's office and the Mayor in a letter to Marilou Righini and from the police department, and what we have seen is that the record now, not only has Diane Herndon's 187 opinion which says that these bridges, these fences do deter suicides, that there is no reasonable alternative, and that Diane Herndon did hear all of these arguments and the D.C. court of appeals did uphold Diane Herndon's opinion in this January, but essentially what we have here is a Federal park land underneath being in danger by a federally funded bridge which is now adequately protected by fences, but now someone wants to make that safe bridge unsafe. And since that is a federally funded bridge, I believe that that bridge should remain safe as it is.

Thank you very much.

Mr. DIXON. Well, from the Chair's point of view, and I understand the emotions and the arguments on both sides, but I don't really think those emotions and arguments should be a concern of the committee's. The concern of the committee was, one, that the same procedure should be followed in arriving at a determination to take the barriers down, as were followed in arriving at the determination to install the barriers, as it relates to the Mayor's agent being appointed and holding evidentiary hearings. And further we asked the Mayor to send up his rationale, and I assume it would be based in part on the findings of the Mayor's agent.

I think it is reasonable to ask that the same procedure and determinations be made in taking the barriers down—and perhaps they should be taken down—as was required and supported by the court in putting them up. I think there is a definite Federal interest, and that is all the language in Public Law 101-302 did.

Believing that, the next question I would ask is, has there been any response from the D.C. government? The answer at this point in time is no. Until there is such a response of any kind, the letters that I have received raising the home rule issue and saying "don't invade home rule," but there has been no response from the executive branch of the District government on this. I think it is an issue that we will discuss, but I think there is some concern on the Senate side, as voiced by Senator Adams and others, as well as on the House side.

So, I mean, this is a very interesting mix of the political, and electoral process and the courts with high emotions on both sides of the issue that the committee doesn't want to get involved in. But as far as seeing your wishes, I think the committee felt very strongly at that time—perhaps that feeling has changed—that the same procedure that was followed in putting up the safety barriers be followed in making a determination as to whether the safety barriers should remain or be taken down.

LANGUAGE ON PUBLIC LAW 101-302

Let me read for the record the exact language that was included in Public Law 101-302 the Dire Emergency Supplemental Appropriations Act for Fiscal Year 1990. This is from pages 104 Stat. 241 and 242 under the leading "Public Works":

> "*Provided*, That none of the funds contained in this Act or any other Act shall he obligated or expended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—
>
> (a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and
>
> (b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences."

Mr. Gallo, I don't know if you have any questions or anything you would like to say.

Mr. GALLO. The only question I have, and I think I asked it last year when we went over this; there were a number of suicides prior to the fence; is that correct?

Mr. READ. Yes; from 1979 through January 28 when they were completed. There were 25. I don't think that is a contested figure.

Mr. GALLO. Twenty-five. How many have there been since the barriers?

Mr. READ. From the medical examiner, we have indication that there was one in July 1986.

Mr. MENDELSON. That is a contested figure, the one.

Our data shows there have been two jumps and there have been an additional at least four attempts of people on the other side of the barriers.

Mr. GALLO. I didn't mention the attempts. I was looking for the completed act.

Mr. MENDELSON. In the packet that I distributed there is a chart that shows suicides in 19—I think it is 1981 through 1987, which was the last information we have when we prepared the chart, and it showed that for the first 3 years the number was the same as for the last 3 years, and that the increase——

Mr. GALLO. Dealing with the bridge?

Mr. MENDELSON. Yes; and the increase was during the high-publicity period which we think attracted suicides to the bridge, much as, unfortunately, the publicity right now over what Congress has done and our bringing this fight out seems to have attracted a few more attempts or suicides.

There was an attempt in April, and a jump yesterday from the Taft Bridge. The attempt in April was off the Ellington Bridge, and the police report is in the packet.

Mr. READ. We have different information.

Mr. DIXON. Ma'am, if you would like to testify, please come forward and identify yourself, but if you are asking him a question, I am not going to get into a debate.

Mrs. READ. Excuse me, I am Anne Read.

The year our daughter died, which is 1979, seven people died at the Ellington Bridge. That was long before there was any discussion of any barrier. Thank you.

Mr. Read. May I add one point, Mr. Chairman. Total suicides, it has been alleged that they all went elsewhere, total D.C. suicides went up in 1986. They had gone down each year since. In 1988 and in 1989 they were postwar lows, post World War II lows, and we know at least five patients who went to the bridge intending suicide who subsequently obtained psychiatric help.

Mr. Gallo. I just wanted to raise the question. I wanted to get a feel for the problem. I didn't want to open up another debate. I would agree that, as the chairman has indicated, there are some things that I would think we need before we act. It just seems there are some requirements that the District has to meet prior to any removal of those barricades.

Mr. Dixon. I think the language in the law is quite clear on that.

[The statement follows:]

STATEMENT OF BENJAMIN H. READ

Mr. Chairman, my name is Benjamin H. Read, a 30 year resident of the District. I am accompanied by Richard A. Glick, an attorney, whose services have been provided on a pro bono basis.

We are appearing on behalf of the Committee for Public Safety at the Duke Ellington Memorial Bridge, an informal committee of 28 organizations that has been formed in a voluntary effort to support retention of the safety fences a the Ellington Bridge. These fences have been remarkably effective in deterring suicide, crime, and accidents as shown by data in official D.C. public records. See attachment 1.

The organizations on the Committee for Public Safety include the primary mental health associations, churches, and social service agencies for children, homeless, abused, impoverished, and mentally or emotionally troubled persons in the community. One member of the group is a Doctors Committee consisting of 17 leading psychiatrists and other physicians. All of the listed doctors have subscribed to a statement setting forth their professional reasons for favoring retention of the fences. See attachment 2.

It is The Committee for Public Safety's position that (1) the provision of law relating to the Ellington Bridge that Congress added as part of the Direct Supplemental Appropriations Act for FY90 has not been complied with; (2) the law was appropriate, timely, and necessary; and (3) the same provision should be retained in the FY91 Appropriations Bill now under consideration.

(1) Non-Compliance with Existing Law

The FY90 Supplemental Appropriations Act states that:

> ". . . none of the funds contained in this Act or any other Act shall be obligated or expended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until --
>
> (a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and
>
> (b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences."

The District has failed to comply with the requirements of the law. Neither before nor since passage has "an evidentiary determination" been made by the Mayor's Agent to consider whether "circumstances have changed to nullify the findings of the Mayor's Agent" in 1987 "as to the benefits of the fences." And no one can dispute the fact that the Mayor has not provided Congress with the required "detailed statement . . . . explaining the basis for the decision to remove the safety fences."

To recap briefly, the 1987 Mayor's Agent proceedings on this issue cited in the law was a full and fair administrative hearing. Advance notices were sent to all interested parties. Two full days of sworn testimony were presented by witnesses on both sides. Dozens of exhibits were entered in the record. The transcript alone covers nearly 600 pages. After weighing the evidence, Mayor's Agent, Diane Herndon, Esq., filed an 11-page opinion and order in District of Columbia Department of Public Works, HPA No. 87-377 (Aug. 20, 1987), which concluded that the barriers provide significant public safety benefits.

The Mayor's Agent's findings, conclusions, and order were unanimously upheld on appeal by a three-judge D.C. Court of Appeals in a January 18, 1990 order. The Court found that the Mayor's Agent had extensively considered all of the evidence and carefully weighed the relevant factors and that her "findings and conclusions are fully supported by the record and adequately explained." Kalorama Citizens Association v. District of Columbia Department of Consumer and Regulatory Affairs, No. 87-1052.

From late 1985 when Mayor Barry ordered completion of the safety fences at the Ellington Bridge until a year ago, the Mayor and the responsible D.C. public health, police, transport, and legal officials are on record repeatedly with assertions that the construction and maintenance of the fences were essential for public safety purposes and that they had proved to be effective deterrents to suicide, crime, vandalism, and accidents. The substantive officials remain of this view.

Last summer, however, the Mayor signed an order for the Department of Public Works to remove the safety fences. He gave no reasons for the reversal of his support for construction and maintenance of the fences at the time of the order. He still has not done so.

Although the Committee for Public Safety has continually requested a hearing and an opportunity to present evidence, the District government has turned a deaf ear. Opponents to the safety fences make reference to a December 13 meeting of the District's Historic Preservation Review Board ("HPRB") at which the Board recommended that the removal of the fences would be architecturally consistent with the historical nature of the Ellington Bridge. This meeting, which was never publicly noticed, and for which none of the organizations comprising the Committee for Public Safety or other safety fence supporters were invited to attend, can hardly substitute for reasoned decisionmaking based on the evidence. Furthermore, there is no indication that any serious effort was made to evaluate the safety issues regarding the removal of the fences. In fact, the HPRB has, since the beginning, been a vocal opponent of the fences.

(2) Appropriateness of the Federal Law Requirement

There is a clear federal interest in this issue. At the City's request Federal funds provided $172,000 (80%) of the construction costs of the safety fences. Considerable additional federal funds, amounting to $320,000 according to the estimate given to the Subcommittees by the City last February, would be used in taking several related actions ordered by the Mayor as part of the removal of the fences, including widening of sidewalk on he bridge, raising the original barriers stonework by six inches, and other arrangements. In addition, the Bridge crosses federal land in Rock Creek Park. Many interstate motorists pass on the roads over and under the structure.

The FY90 Supplemental Appropriations Act does not mandate permanent retention of the Ellington Bridge public safety fences. It merely requires that elementary administrative due process be followed in an "evidentiary determination" and "detailed statement" explaining the basis for the Mayor's action. Surely, this is an appropriate action by the Congress in a matter which the Mayor's Agent and the courts have held that the fences are necessary in the interests of public safety.

(3) Need to Extend the Existing Provision of Law

If the District of Columbia government proceeds without any further process to remove the safety fences in FY 1991 or later, the historical record shows that such action would endanger the lives and safety of persons who pass on or under the Bridge; many of whom are served by the organizations constituting the Committee for Public Safety. To date, no indication has been given as to the District's concern about the City's potential liability for damages in likely future wrongful death and injury actions that could be brought on behalf of the estates of those who died or were injured if the safeguards were removed.

This is an issue with broad implications and should be decided on that basis; not just on the concerns of a few vocal aesthetics activists. It should be noted that many persons and groups in the neighboring community support the fences as evidenced by the many local organizations that are part of the Committee for Public Safety and the hundreds of letters and petition signatures on record with the city as supporting the fences.

As noted in the first attachment, the official records of the D.C. Medical Examiner and the Commission on Public Health show that in the seven year period from January 1, 1979 until January 28, 1986 when the safety fences were completed, twenty-five persons fell or were pushed to their death from the Ellington Bridge. In the nearly four and a half years since the fences were in place, only one person has died there. Obviously, the fences have had a substantially effective deterrent value.

The question about whether persons deterred at the site have committed suicide elsewhere cannot be answered definitively, but circumstantial evidence indicates that many lives have been saved. Several persons who have gone to the site since 1986 to commit suicide have been deterred from doing so by the fences. Three psychiatrists on the Doctors Committee have treated patients who have had such experiences in the last four years and remain alive today. Rescues by police and passersby of several others who tried to or actually scaled the fences in apparent suicide attempts were made possible because of the existence of the fences.

Total suicides in the District and suicides by jumping from D.C. overpasses which increased in 1986 have decreased steadily since and set new post-World War II record lows in the last two years. Homicides by throwing persons from the Bridge and threats of doing so by street thugs to pedestrians on the Bridge -- which occurred before the fences were built as revealed in evidence presented to the Mayor's Agent in the 1987 hearing -- have stopped completely. Clearly, such terrible actions which had occurred when the original barriers were less than 4 feet high would be virtually impossible to carry out against an unwilling victim who would have to be thrown over the present 8 foot high barriers. The fear of accidents to elementary school children who use the Bridge and to motorists and others below has also been reduced. Based on pre-1986 records, fatalities, injuries, and fears will inevitably recur in the future if the public safety fences are removed.

The Committee for Public Safety at the Duke Ellington Memorial Bridge supports the existing provision of law regarding the bridge and respectfully asks the Committee to extend its terms beyond FY 1990.

ATTACHMENT 1

June 26, 1990

SUICIDES AT THE DUKE ELLINGTON BRIDGE

Before Fences Completed	
1979	7
1980	4
1981	1
1982	1
1983	0
1984	5
1985	6
1986 (1/13)	1
Total (25)	
Aver. 3.5 deaths/year	

After Fences Completed on 1/28/86	
1986 (7/28)	1
1987	0
1988	0
1989	0
1990 to date	0
Total (1)	
Aver. 1 death/4.4 years	

Sources: D.C. Medical Examiner records, as set forth (a) for 1989 in April 19, 1990 response to B.H.Read F.O.I.A. request; (b) for 1986-1988 in attachment to Mayor Barry's letter of Feb. 17, 1989 to Marilou Righini, entitled "Situation Analysis of Suicides on the Duke Ellington and Taft Bridges" and as provided in a 2/89 response by the D.C. Commission of Public Health to an F.O.I.A. request by B.H.Read; (c) for 1979-86 in Medical Examiner certification dated July 8, 1987, which was entered as exhibit 7 in the court record of Kalorama Citizens Assn., et al vs D.C. Department of Consumer and Regulatory Affairs, (D.C.) Court of Appeals, CA 87-1052; and (d) for 1990 to date statements of officials of the D.C. Medical Examiners Office and of the D.C. Commission of Public Health.

ATTACHMENT 2

STATEMENT BY DOCTORS COMMITTEE -- April 1990

Until public safety fences were built, the Duke Ellington Memorial Bridge was Washington's most notorious suicide site. The fences have greatly reduced suicides there. We strongly oppose their removal.

Such sites attract despondent persons for many reasons, e.g. their known association with suicide; their ease of access; their natural or symbolic beauty; and the virtual certainty of lethality of falls.

The despair that inclines persons to suicide by jumping from high places may reflect anything from serious clinical depression to transitory or impulsive despondency. Most individuals, however, no matter how long or brief their suicidal inclination, approach the act itself with feelings of ambiguity. The desire to be done with the problems that have led to such considerations conflicts with the instinct to survive.

At such moments, rescue efforts by others often trigger the decision to jump when there is nothing to prevent it. Depression is often marked by low levels of energy. Having to scale fences at such times, even when physically feasible, can weaken resolve. Fences often makes rescue feasible and provide something to cling to until the last moment. They are also an important symbolic reminder of community concern for the troubled.

High bridges represent a special hazard to young persons. Suicide by jumping requires no advance planning or equipment. Without long experience with setbacks that often prove short-lived, the young are more likely than others to take fatal action on impulse, particularly when caution is dulled by drink or drugs. The Ellington Bridge used to be a fatal magnet for depressed young people.

The National Research Council and Institute of Medicine in their major study, Injury in America (1985), observed that reducing the availability and accessibility of popular means of suicide can reduce suicide. This view was the basis for recommendations in the Task Force on Youth Suicide report (1986) of the U.S. Department of Health and Human Services, which recommended actions "to limit access to youths at high risk for suicide to the lethal means of suicide" and "to limit access to bridges and high buildings from which young people are likely to jump to their death."

There is no evidence that individuals deterred from suicide at one site will proceed to do so elsewhere. From persons who have jumped but survived we know that some have only one specific site in mind. At least, if deterred by fences they will be forced to take time to review their options. This may take them past the point of maximum danger or enable them to seek needed assistance. Three psychiatrists on the Doctors Committee have been consulted by persons who went to the Ellington Bridge with suicidal intent and were deterred by the fences.

Fences at other major suicide sites, such as the Cape Cod Canal, Pasadena, and Sydney Harbor bridges, have sharply reduced or, if high enough, prevented suicides there. Bridge hotlines to crisis centers can help some people to obtain assistance, but they are not an adequate substitute for physical barriers. Hotlines on the unfenced Poughkeepsie Bridge have not significantly reduced suicides there.

The psychiatrists and other doctors listed below are members of the Doctors Committee of the Committee for Public Safety at the Duke Ellington Memorial Bridge who subscribe to the foregoing statement urging retention of the safety fences at the Ellington Bridge.

Dr. Jeffrey S. Akman, M.D. Department of Psychiatry and Behavioral Sciences, G.W.U. Hospital Medical Center
Dr. Bernard S. Arons, M.D., National Institute of Mental Health
Dr. Alan L. Berman, Washington Psychological Center; former president, American Association of Suicidology
Dr. Johanna Ferman, Executive Medical Director of the D.C. Institute of Mental Hygiene
Dr. Ricardo Galbis, Psychiatrist, Director, Andromeda Mental Health Center
Dr. Howard A. Hoffman, President/Medical Director, The Psychiatric Institute of Washington
Dr. Edward C. Kirby, M.D.
Dr. Edgardo J. Menvielle, Psychiatrist, Children's Hospital
Dr. Seymour Perlin, Psychiatrist, G.W.U. Hospital Medical Center; former president, American Association of Suicidology
Dr. R. Michael Sanders, Psychiatrist
Dr. Irving Schneider, M.D.
Dr. Jerry M. Wiener, Chairman, Dept. off Psychiatry and Behavioral Sciences, G.W.U. Hospital Medical Center; former president, American Academy of Child and Adolescent Psychiatry

Note: Other doctors are also on record as favoring retention of the Ellington Bridge safety fences.

LETTERS FROM BENJAMIN H. READ

July 5, 1990

Hon. Julian C. Dixon, Chairman
D.C. Appropriations Subcommittee, Room H-301
The Capitol, Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Committee for Public Safety, this letter submits for your consideration this summary of its procedural position.

1. The Mayor's Agent proceeding in 1987 has been the only full and fair adversarial, evidentiary hearing and determination to date on the Ellington Bridge public safety fences controversy. The hearing was required by Judge Wertheim of the D.C. Superior Court who held that in granting the 1985 permit for the fences the Dept. of Public Works had made errors that were "entirely procedural" and directed barrier removal unless the Mayor found after a public hearing that the fences were "necessary in the public interest." (Butler, et al. v. D.C. Dept.of Public Works, Civil Action #0084-86, Mar. 27, 1987 opinion, pp 15,16)

2. By direction of the Mayor a two-day public hearing was held by Mayor's Agent Diane L. Herndon, Esq. in July 1987 at the Dept. of Consumer and Regulatory Affairs on DPW's reapplication for a permit. At the Agent's hearing the neighborhood groups and persons opposing the fences and their witnesses, all represented by private counsel, testified that the fences marred the architectural integrity of the bridge. District public works, mental health and police officials, community, city-wide, and national group representatives, doctors, and individuals, all represented by D.C. Corporation Counsel, testified that the fences were necessary to deter suicides, crime, and accidents and that there were no reasonable alternatives. Direct and cross examination filled a 600-page transcript, and the record also included numerous exhibits. In an 11-page opinion and order the Mayor's Agent set forth 14 specific findings of fact and her conclusions of law that the fences "deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge," that their special merit "outweighs any infringement on the architectural integrity" of the bridge, and that "there are no reasonable alternatives" to the fences. According she approved the permit as "necessary in the public interest." (Dept. of Public Works v. ANCs et al., HPA No. 87-377, Aug. 20, 1987 opinion, p.11) Fence opponents appealed but the opinion and judgement of a three-judge panel of the D.C. Court of Appeals stated that the Agent's "findings and conclusions are fully supported by the record and adequately explained." Kalorama Citizens Assn. et al v. D.C. Dept. of Consumer and Regulatory Affairs, CA 87-1052, Jan. 18, 1990 opinion, p.2

3. On their own initiative the same neighborhood groups opposing the fences funded an alternative design competition, and in February of 1989 an design was chosen by a panel chosen by the sponsors which included removal of the fences. Fence opponents then first met privately with the Mayor to urge him to adopt their plan. In June of 1989, some weeks after hearing various conflicting public views on the issue, the Mayor reversed his long-standing pro-fence position and signed an unpublished order to D.P.W. over its objection to adopt the opponents' plan and to remove the fences. He gave no ex-

planation for his action then or since, and his Administration has not yet attempted to justify reversing its prior support for the 1987 Mayor's Agent court-approved findings and conclusions of law.

4. A new procedural argument presented by a fence opponent at the Committee hearing last week was that the Dec. 13, 1989 proceeding of the Historic Preservation Review Board approving D.P.W.'s application for a permit to carry out the opponents' plans as directed by the Mayor constituted the "evidentiary determination" required by the Appropriation Committees, that fence supporters had failed to appeal the decision, so there was no need for another such hearing. This argument is flawed in several basic respects. (a) The only prior public notice of the HPRB proceeding gave no indication of the subjects to be considered; (b) Since no fence supporter or group knew that the fence permit was to be under consideration, none appeared at the proceeding. (c) The jurisdiction of the HPRB, which had always opposed the fences, is limited to historic preservation matters and as far as is known no consideration was given as to whether the plan met the public safety standards established by the Mayor's Agent and approved by the Court of Appeals. (d) No public notice of the HPRB decision was printed in the D.C. Register as required by law, and fence opponents only learned about the HPRB proceeding by chance 3 months later. (f) Despite repeated requests by the bono attorney for fence supporters, no copy of the Board's opinion has ever been received and no indication has been given as to whether there was a transcript of the proceeding. And finally, (g) the HPRB has failed to respond to the request for a proper hearing by the attorney for fence supporters.

In summary, the Committee for Public Safety submits -1- that the FY 90 Supplemental Appropriation Act provision relating to the Ellington Bridge fence removal procedure was entirely correct and necessary to assure elementary due process on an issue plainly involving public lives and safety, and -2- the provision's requirements for "an evidentiary determination" and "detailed statement" of explanation by the Mayor as to why the court-approved findings and conclusions of law by Mayor's Agent in 1987 should be extended beyond FY 90 in the FY 91 Appropriation Bill under consideration.

Respectfully submitted,

Ben H Read

Benjamin H. Read

July 5, 1990

Summary of Procedural Position of Commitiee for Public Safety

1. D.C. Superior Court Judge Ronald P. Wertheim held that in granting a permit for the fences in 1985 the Dept. of Public Works had made errors that were "entirely procedural" and directed barrier removal unless the Mayor found after a public hearing that the fences were "necessary in the public interest." (*Butler, et al. v. D.C. Dept.of Public Works*, Civil Action #00084-86, Mar. 27, 1987 opinion, pp 15,16)

2. By direction of the Mayor, Mayor's Agent Diane L. Herndon, Esq. held a two-day public hearing in July 1987 at the Dept. of Consumer and Regulatory Affairs on DPW's reapplication for a permit. At the Agent's hearing the neighborhood groups and persons opposing the fences and their witnesses, all represented by private counsel, testified that the fences marred the architectural integrity of the bridge. District public works, mental health and police officials, community, city-wide, and national group representatives, doctors, and individuals, all represented by D.C. Corporation Counsel, testified that the fences were necessary to deter suicides, crime, and accidents and that there were no reasonable alternatives. Direct and cross examination filled a 600-page transcript, and the record also included numerous exhibits. In an 11-page opinion and order the Mayor's Agent set forth 14 specific findings of fact and her conclusions of law that the fences "deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge," that their special merit "outweighs any infringement on the architectural integrity" of the bridge, and that "there are no reasonable alternatives" to the fences. According she approved the permit as "necessary in the public interest." (Dept. of Public Works v. ANCs et al., HPA No. 87-377, Aug. 20, 1987 opinion, p.11) Fence opponents appealed but the opinion and judgement of a three-judge panel of the D.C. Court of Appeals stated that the Agent's "findings and conclusions are fully supported by the record and adequately explained." Kalorama Citizens Assn. et el v. D.C. Dept. of Consumer and Regulatory Affairs, CA 87-1062, Jan. 18, 1990 opinion, p.2

3. On their own initiative the groups opposing the fences funded an alternative design competition, and in February of 1989 an design was chosen by a panel chosen by the sponsors which included removal of the fences. Fence opponents then first met privately with the Mayor to urge him to adopt their plan. In June of 1989, some weeks after hearing various conflicting public views on the issue, the Mayor reversed his long-standing pro-fence position and signed an unpublished order to D.P.W. over its objection to adopt the opponents' plan and to remove the fences. He gave no explanation for his action then or since, and his Administration has not yet attempted to justify reversing its prior support for the 1987 Mayor's Agent court-approved findings and conclusions of law.

4. On Dec. 13, 1989, the Historic Preservation Review Board met and agreed to D.P.W.'s application for a permit to carry out the opponents' plans as the Department had been directed to do by the Mayor. This proceeding was flawed in several basic respects. (a) The only prior public notice of the HPRB proceeding gave no indication of the subjects to be considered: (b) Since there had been no notice that the fence issue was under review, no fence supporter or group appeared at the proceeding. (c) The jurisdiction of the HPRB, which had always opposed the fences, is limited to historic preservation matters and as far as is known the Board did not consider whether the plan reviewed met the public safety standards established by the Mayor's Agent and approved by the Court of Appeals. (d) No public notice of the HPRB decision was printed in the D.C. Register as required by law, and fence opponents only learned about the HPRB proceeding by chance 3 months later. (f) Despite repeated requests by the bono attorney for fence supporters, no copy of the Board's opinion has ever been received and no indication has been given as to whether there was a transcript of the proceeding. And finally, (g) the HPRB has failed to respond to the request for a proper hearing by the attorney for fence supporters.

In summary, the Committee for Public Safety submits -1- that the FY 90 Supplemental Appropriation Act provision relating to the Ellington Bridge fence removal procedure was entirely correct and necessary to assure elementary due process on an issue plainly involving public lives and safety, and -2- the provision's requirements for "an evidentiary determination" and "detailed statement" of explanation by the Mayor as to why the court-approved findings and conclusions of law by Mayor's Agent in 1987 should be extended beyond FY 90 in the FY 91 Appropriation Bill under consideration.

Submitted on behalf of the Committee for Public Safety by

Ben H. Read

Benjamin H. Read

Summary Chronology of Proceedings on Ellington Mem. Bridge Safety Fences

1984

Apr. 10 - Fine Arts Commission approves fence plans of Dept. of Public Works (DPW) with agreed design and color modifications
Apr. 12 - DPW presents modified plans to D.C. Historic Preservation Office
Jun. 15 - DPW submits fence plans to Advisory Council on Hist. Pres.
Aug. 2 - DPW presents plans to meeting of ANC-1-C, which passes res. approving the plans
Aug. 8 - DPW presents plans to meeting of ANC-3-C, which passes res. approving the plans
Sep. 19 - Memo of agreement signed by DPW, Adv. Com. of Hist. Pres. and Federal Highway Admin. stating that "there is no alternative...and the project should proceed" as planned.
Nov. 21 - Advertisement of RFP for fence project
Dec. 13 - Bids opened. Long Fence Co. is low bidder

1985

Jan. 28 - Newly elected ANC-3-C reverses position and opposes fences
Feb. 4 - Newly elected ANC-1-C reverses position and opposes fences
Mar. 20 - Fence contract awarded to Long Fence Co.
Apr. 29 - DPW Director advises all parties that "The extraordinary history of suicide from the bridge makes installation of a fence imperative...to insure the safety of bridge users...".
Aug. 19 - Contractor starts construction of Ellington Bridge fences
Aug. 22 - Hist. Preservation and other fence opponents obtain temporary restraining order (TRO) in U.S. District Court
Aug. 28 - Fed. District Court Judge Norma Johnson dismisses TRO
Sep. - Same groups request preliminary injunction in U.S. Dist. Court
Sep. 20 - Judge Stanley S. Harris rejects request for injunction
Sep. 20 - Mayor orders suspension of fence construction work
Oct. 4 - Judge Harris files formal opinion rejecting injunction
Nov. 27 - Plaintiffs file appeal from Judge Harris's ruling
Dec. 18 - Mayor orders completion of fence construction after three suicides at Ellington Bridge in 11 days

1986

Jan. 3 - Plaintiffs file for preliminary and permanent injunction in D.C. Superior Court to restrain DPW and Mayor from continuing construction
Jan. 28 - Safety fences construction completed

1987

Mar. 27 - Superior Court Judge Ronald Wertheim grants request for summary judgment because of DPW procedural errors but suspends implementation pending receipt of evidence by Dept. of Consumer and Reg. Affairs on whether fence "retention necessary in public interest."

Jun. 2 - U.S. Court of Appeals (DC) three judge panel opinion affirms U.S. District Court denial of injunction (Opinion #85-6182)

July - Mayor's Agent Diane Herndon holds two days of formal hearings by witnesses and experts for both sides represented by counsel and cross-examination permitted. Transcript covers about 600 pages and full record includes dozens of exhibits. All D.C. substantive agencies represented support fences.

Aug. 20 - Mayor's Agent files 11 page opinion and order in D.C. DPW v. D.C. Preservation League, HPA 87-377 concluding fences are "necessary in the public interest." More specifically, she concludes (on page 11) that:

(1) the barriers have significant benefits because they deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge;

(2) the special merits of the barriers outweigh any infringement upon the architectural integrity of the Ellington Bridge; and

(3) there are no reasonable alternatives to the safety barriers.

1988

Feb. 16 - Fence opponents appeal to the D.C. Court of Appeals from the Aug. 20, 1987, ruling of the Mayor's Agent

1989

Feb. 7 - Three judge panel of D.C. Court of Appeals hears arguments on the appeal from Mayor's Agent order

Feb. 18 - Informal Citizens' Committee for the Ellington & Taft Bridges holds community workshop and design awards competition for alternatives to safety fences

Apr. 10 - Mayor holds informal town meeting to hear presentations about alternative design and support for existing safety fence and hears divided miscellaneous neighborhood views on subject without opportunity for systematic development of sworn testimony or cross-examination. No record made available.

Jun. 8 - Mayor signs order to remove fences over opposition of D.C. substantive agencies without presenting any reasons for doing so

Sep. - Informal Committee for Public Safety at the Duke Ellington Memorial Bridge of 28 primary mental health, social services and church groups in Washington community to support retention of safety fences at bridge

Dec. - D.C. Historic Preservation Review Board publishes notice that it will meet later in month without stating agenda. Proceeding of HPRB held without knowledge or presence of fence supporters and approval given to removal of fences. HPRB fails to file required notice of its holding in D.C. Register which is not known to fence supporters until months later.

1990

Jan. 18 - Chief Judge Rogers and Associate Judges Ferren and Belson of D.C. Court of Appeals files memorandum opinion and judgment upholding the Mayor's

Agent 1987 order and finding the Agent had carefully weighed the evidence and that her "findings and conclusions are fully supported by the record and adequately explained." Kalorama v. DCRA, CA 87-1052

Feb. 28 - DPW files 60 day advance notice required in D.C. FY 1990 Appropriations Act stating that "the estimated additional cost required for removal of the existing safety fences, including proposed modifications defined above, is $500,000" of which Federal funds would be sought to provide $320,000, fences. Work to occur about June 1, 1990.

Apr. - 17 Psychiatrists and medical doctors subscribe to fence support statement.

Statements and Actions by D.C.Government Officials about public safety requirements for fences on Duke Ellington Memorial (Calvert Street) Bridge

Mayor Barry

Approves decision of Department of Public Works announced on April 29, 1985 to construct public safety fences on bridge.

(Construction of fences begins on 8/19/85)

Mayor Barry visits the bridge and tells Anne K. Read that "Something has to be done to prevent further tragedies."

(Three suicides occur at bridge on 11/27, 12/5 and 12/7)

On Dec. 18, 1985, Mayor Barry decides to order continuation and completion of safety fences on bridge and tells reporter that "Life is more important than esthetics." -- Wash.Post 12-19/85

Work continuation order issued on Dec. 26, 1985 stipulates that barriers are to be put in place on a trial basis with their effectiveness to be reviewed after one year.

"This decision (to retain or to remove the fences) involves life and death matters." - Mayor Barry at Town Meeting, 4/10/89

Mayor Barry, telling his aides that it is a "lose-lose proposition," initials an order on June 8, 1989, without stating his reasons for doing so.

Mayor's Agent, Diane L. Herndon, Esq., held two days of public hearings on July 10 and 14, 1987, as required by a DC Superior Court ruling, to determine if the Department of Public Works should be issued a permit to retain as necessary in the public interest as required by a ruling of the DC Superior Court. Based on the record in the case (see 600 page transcript and multiple exhibits), the Mayor's Agent filed an eleven-page opinion and order on August 20, 1987, allowing the permit for the fences in the case (DC Department of Public Works, Applicant v ANC 1-C and 3-C, et al and the D.C.Preservation League, HPA No. 87-377), in which she stated as follows:
Preservation League, which stated, e.g

> "Uncontroverted evidence shows that prior to the construction of the safety barriers on the Ellington Bridge, the bridge was the most frequent bridge suicide site in the District with 24 cases reported between 1979 and 1986." ...
>
> ...
>
> "(During the sixteen months) since January 28, 1986, when the suicide prevention railings were completed, only one suicide has occurred from the bridge. During the sixteen months before the barriers were constructed there were nine suicides."
>
> "While the primary focus has been on the effectiveress of the barriers as a suicide deterrent at the Ellington Bridge, I find that the facts illustrate that there are other significant public safety issues in the case. One witness testified that an apparent suicide victim fell into the path of his motor vehicle, endangering his life as well as the lives of other passing motorists. (T,.175). Another witness testified that her daughter:s death from the Ellington Bridge was not a suicide but rather a homicide. (T.270). Additionally, testimony was introduced to show that debris thrown from the bridge could result in substantial harm to users of the Rock Creek Parkway below the bridge."
>
> ...
>
> "I conclude that: (1) the barriers have significant benefits because they deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge; (2) the special merit of the barriers outweights any infringement upon the architectural integrity of the Ellington Bridge; and (3) there are no reasonable alternatives to the safety barriers."

Department of Public Works (DPW)

"The extraordinary history of suicides from this bridge makes installation of a fence imperative. An average of over four death a year occur at this site." - Letter from John E. Touchstone, Director, DPW, to D.C. Residents who had written pro and con fence construction, April 29. 1985.

"We feel that the data clearly indicates that the barriers are an effective public safety device... . The preponderance of evidence available to us indicates barriers are an effective (suicide) prevention technique... . These barriers help provide other safety features such as decreasing the occurrence of accidental falls or property damage caused by objects being thrown from the bridge." John E. Touchstone, Director, DPW, Letters to ANC 1-C and ANC 3-C, July, 31, 1987.

"As you may be aware, there were six suicides at this location in 1985. Mayor Barry has directed this Department to take immediate steps to end these tragic steps. Consequently, we have notified the contractor to resume the originally planned work (on the fences). - C. Bernard Gilpen, Administrator, DPW Office of Policy and Planning, letter to Pamela Harriman, Jan. 15, 1986.

"I feel that as a prudent public servant charged with providing a safe environment on our city streets and bridges, the choice between esthetics and public safety and the potential or the opportunity of saving lives and preventing suicides is an obvious choice, easily made." Wallace Cohen, Acting Administrator, DPW, testifying in favor of fence retention at the public hearing before Mayor's Agent, July 10, 1987. (Transcript, p. 141)

Metropolitan Police Department

Capt. Rodney A. Murray, Acting C.O. for Roland W. Perry, Dep. Chief Commander, 2nd District, letter to C. Bernard Gilpen, D.P.W. dated 7/29/85: "I am in agreement with the proposal to install the safety fences. This expanded means of safety will provide additional protection needed and reduce the number of suicides and suicide attempts which have been a source of consternation in the area of the bridge." (Exhibit 10)

Lt. Calvin J. Wilson, police spokesman for the Second District, told the Washington Post on Dec 17, 1985, that the police are in favor of a fence or anything that will save lives. District officers have stopped numerous persons from jumping off the bridge and picked up many bodies under the bridge. Wilson personally had dissuaded two or three would-be suicides. - Washington Post, 12/18/85

In testifying in favor of retention of the fences before the Mayor's Agent on July 10, 1987, Lt. Wilson stated: "We're not picking up as many bodies at the bottom of the bridge as we formerly did. ... In my opinion they (the fences) are effective." (Transcript, pp. 98,99)

D.C. Department of Human Services (DHS)

Dr. Robert Kiesling, psychiatrist, Director of the Emergency Psychiatric Response Division of DHS:

> "The Department of Human Services is in support of the Ellington Bridge barriers for the following reasons: Since the implementation of the barriers, only one suicide has occurred at the Bridge. In 1984 and 1985 there were eleven suicides from the same site. Data from other jurisdictions support the effectiveness of such barriers on bridges."
> - Mayor's Agent hearing, 7/10/87 (transcript, p. 23)

D.C. Corporation Counsel

Frederick D. Cooke, D.C. Corporation Counsel: "A review of the record shows that the (Mayor's) agent's finding that the barriers provide significant public safety benefits was supported by substantial evidence and must thus be upheld by the Court... The Agent's finding the at the barriers served the overridign value of public safety was supported by substantial evidence." Brief filed by Corporation Counsel in D.C. Court of Appeals, pp. 11,12 (Appeal No. 87-1052)

Corporation Counsel Post Hearing Brief, pp. 4,5, Aug. 3, 1987:

> "If the barriers were removed, the District would incur an estimated cost of $192,000. This figure includes the cost of removal and reimbursement to the Federal Highway Administration of its 80% contribution to the installment of the barriers. (Memo from Gary Burch to John Touchstone dated July 27, 1987)"
>
> "The safety condition at the Duke Ellington Bridge has demonstrably improved. Suicidal persons who are morbidly allured to this suicide landmark are deterred from jumping off the bridge. The barriers also protect the safety of pedestrians, motorists and bicyclists below the bridge by preventing people from jumping into their paths. Additionally, the the barriers deter people from throwing large objects over the bridge, provide protection against accidental falls, and prevent people from intentionally pushing someone off the bridge. Clearly the barriers produce significant benefits to the District of Columbia and the community by creating safer conditions at the Duke Ellington Bridge." (Exhibit 81, CA 87-1052)

Other

Daniel J. Hanson, Vice Chairman of the Mayor's Advisory Committee on Traffic Safety (Pres, American Road & Transporatation Builders Assn and former Dep Dir. of District's DPW predeccsor agency) submitted a statement dated July 10, 1987, for the record of the Mayor's Agent hearing in favor of retention of the Ellington bridge fences, which stated in part as follows:

> " These safety fences offer a number of positive improvementsto the 'Duke' Ellington Bridge.
> 1. Pedestrian safety has been greatly enhanced on both the north and south sidewalks across the bridge.
> 2. Bicyclists who use the bridge have been provided an additional factor of safety.
> 3. A motorist who may be traveling at a high rate of speed across the bridge is protected from rudnning off the roadway, crashing into the old low level guardrail and landing in Rock Creek Park.
> 4. Obviously pedestrians are now prohibited from falling or jumping off the 'Duke' Ellington Memorial Bridge." (Exh.19)

LETTER FROM MARION BARRY, JR., MAYOR

October 16, 1987

Mr. B. Harold Smith
Chairman, ANC 1-C
2425 - 18th Street, N. W.
Washington, D. C. 20009

Dear Mr. Smith:

Your September 4, 1987 letter transmitted the objection of ANC 1-C to retaining the safety barriers on the Duke Ellington Memorial Bridge. As you have pointed out, the results of the public hearing led to the finding that the barriers should remain.

This finding was based on the fact that the barriers have significant benefits in deterring or reducing suicides and improving public safety on and below the bridge. Further, the public safety aspect of the barriers was determined to outweigh the infringement of the architectural integrity of the Ellington Bridge.

I appreciate the Commission's concern in this matter and want to thank you for making your concerns known.

Sincerely,

Marion Barry, Jr.
Mayor

LETTER FROM MYLES GLASGOW, ATTORNEY AT LAW

Re: Retention of Suicide Deterrence barriers at
the Duke Ellington Memorial Bridge in Wash. D.C.

From 1979 through 1985 the Duke Ellington Memorial Bridge was the site of 54% of all bridge related suicides in the District of Columbia, i.e. 24 of 44 suicides from D.C. bridges occurred at this one bridge while 12 of 44, or 27% occurred during the same time at the nearby Taft bridge. District and federal taxpayers incurred the direct cost of $229,194.07. to erect suicide barrier fences at the Duke Ellington Memorial Bridge as of January 28, 1986. There has been one suicide from this bridge since the barriers were erected and several persons who have made attempts have been rescued because of the fences. Rescues in fact are easier because the attempter and the rescuers hold on to the fences which are also used to secure safety lines.

In August of 1987, the Mayor's agent Diane Herndon, Esq. issued an eleven page opinion after hearing six hundred pages of testimony in July of 1987 for and against the retention of the fences. This opinion was appealed by the Kalorama Citizens Association. The city defended this decision and it was upheld by a panel of the D.C. Court of Appeals, Chief Judge Rogers, Judge Ferren and Belson, who wrote on January 18, 1990 that

"The conclusion of the Mayor's agent that the special merits of the barriers outweighed any infringement upon the bridge's architectural integrity as well as her ancillary findings and conclusions are fully supported by the record and adequately explained."

What are some of these "ancillary findings and conclusions" which the three Judge panel found to be "fully supported by the record and adequately explained"?

The Mayor's agent's 1987 opinion concluded at page 11 as a matter of law and fact that the suicide barriers erected in 1986 at the Duke Ellington Memorial bridge

a. "have significant benefits because they deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge".

b. that "the special merits of the barriers outweighs any infringement upon the architectural integrity of the Ellington Bridge" and

c. "there are no reasonable alternatives to the safety barriers."

Ms. Herndon's opinion made fourteen specific findings of fact which are reported at pages 3 through 8 of her opinion, including but not only:

a. In addition to suicides, there "are other significant public safety issues in this case" including, suicide victims falling on cars below in Rock Creek Parkway, homicide, and debris thrown on to users of Rock Creek Parkway. (Finding #4).

b. Since the 1970's the City's Department of Public Works has implemented a policy of erecting safety barriers whenever a bridge with potential safety problems was reconstructed, rehabilitated or replaced. The reasons for the general policy was "to deter people from jumping, accidentally falling or being thrown from the bridge, or from throwing objects over the bridge onto and into the paths of vehicles and pedestrians below the bridge." (Finding #5).

c. In 1984, the Advisory Council on Historic Preservation, The State Historic Preservation Officer, the Federal Highway Administration and the City's Department of Public Works executed a Memorandum of Agreement in which it was agreed that there was no alternative to the safety barriers in protecting the public. (Finding #6).

d. The city incorporated changes made by the Commission of Fine Arts and sought to achieve greater compatibility of the proposed structure with the existing architecture. (Finding #7).

e. The city considered alternative type safety devices and fencing. (Finding #8).

f. The city's report, entitled "The Suicide Prevention Project", dated February 4, 1987 was prepared by DHS and concluded that safety barriers were effective in reducing leaping suicides at dangerous sites. (Finding #9).

g. "Protective barriers have significantly reduced the incidence of suicide at other popular sites across the nation" (Finding #11).

h. "The record does not support any nexus between the erection of the safety barriers and the increase of suicide citywide, the increase in bridge suicides, or the increase in the number of bridge sites used. Nor does the record support the theory that suicide attempters are merely redirected to other sites." (Finding #11)

Ms. Herndon's Conclusions of Law, found at pages 8 through 11 of her opinion, include findings that:

a. The city "Pursued a consistent policy of erecting safety barriers on bridges scheduled for rehabilitation and having a history of or a potential for public safety problems. There are currently over 40 bridges in the city with safety barriers." (page 9).

b. "the accessibility and attractiveness of this bridge as a suicide site were the reasons the Applicant expedited its consideration of the bridge for barriers."

c. "The evidence presented persuades me that jumping off a bridge to commit suicide is likely to be an ambivalent, impulsive act which could be deterred by a physical barrier. Deterring, delaying or interrupting the suicidal person from completing the act of suicide offers a chance to prevent that suicide. It also allows a greater period of time for personal intervention by mental health professionals." (page 10)

d. "The real test of the effectiveness of the barriers is whether the barriers reduce the incidence of suicide at the bridge." (page 10).

e. "I find that the reduction of the suicide rate from nine to one over a comparable period of time is evidence that the barriers have been effective as a deterrent to suicide at the Ellington Bridge." (page 10)

f. "The applicant has considered all reasonable alternatives to the barriers and rejected them as either technically unfeasible, ineffective, prohibitive in cost, or aesthetically more damaging to the architecture of the bridge." (page 10).

g. "I find that the Applicant, in designing the safety barriers, revised its design to minimize the impact on the historical and aesthetic value of the bridge." (page 10).

There have been no hearings or findings made by the city to contradict those of Diane Herndon's opinion which the D.C. Court of Appeals affirmed a few months ago on January 10, 1990. The city's Corporation Counsel as well as the City's Department of Consumer and Regulatory Affairs defended and adopted these findings and persuaded the D.C. Court of Appeals to affirm these same findings.

The findings of the 1987 order are therefore law in the District of Columbia and are binding on the Mayor as well as the Department of Public Works, the Historic Preservation Review Board, architects, engineers and contractors involved in modifying or removing the fences at the bridge.

The unsuccessful appellants of the Mayor's agent's opinion, the Kalorama Citizens Association and others, ignored the legally binding nature of the findings of the Mayor's agent's decision and persuaded the Mayor to take down the fences regardless of the written record. Community meetings were held for which there is no written nor tape recorded record. No written findings or opinions ever followed those meetings. Due process and proper administrative procedure were totally ignored.

The Mayor made this decision unsupported by any record of any testimony and without issuing any appealable findings. Claims are now being made that in October of 1989 the Commission on Fine Arts and in December of 1989 the Historic Preservation Review Board approved the Department of Public Work's application for a work permit which "implicitly" included removal of the fences. There was no mention in any written notices of a hearing to decide whether to take down the fences. The Commission of Fine Arts and the Historic Preservation Review Board were against the fences in 1986, which is what led to the necessity of having a special hearing before the Mayor's agent of 1987. Any hearing before these already decided and biased bodies would have been a useless act, a kangaroo court and and a sham. Based on oral inquiries, since there are no written records of these alleged hearings, there was no consideration given to the six hundred pages of testimony before Diane Herndon, Esq., nor was consideration given to the legally binding effect of the findings and conclusions of the 1987 opinion which the city was defending before the D.C. Court of Appeals while these "secret" meetings were being conducted.

The city never changed its support of the 1987 opinion through January 18, 1990. It is unconscionable that the city defended the 1987 opinion before the D.C. Court of Appeals and at the same time failed to give proper notice and hold a proper hearing on the plan to contravene the opinion and order. Those citizens who relied on the finality of the 1987 opinion and order of Diane Herndon, Esq., properly relied on the city's defense of that opinion before the D.C. Court of Appeals through the January 18, 1990 decision. Neither the Commission of Fine Arts nor the Historic Preservation Review Board have the authority to abandon the legally binding effects of the findings made by the Mayor's Agent which were upheld and affirmed by the D.C. Court of Appeals as "fully supported by the record".

The removal of those fences will be a negligent action and will breach the standard of care required of those involved in modifying the bridge. Removal of the fences dramatically increases the risk that persons will once again use this bridge as the number one suicide bridge in D.C. Those responsible for increasing that risk may be liable for the injuries and damages which result from suicides at the unprotected bridge. Removal of the fences will make this now safe bridge unsafe and will expose the city and those professionals whose duty it is to design and construct a safe bridge to liability for wrongful death claims. The city knows that this bridge was the number one suicide bridge and it installed fences that deterred suicides, which the Mayor's agent found as a matter of law all of which was upheld by the D.C. Court of Appeals. The city has the last clear chance to deter suicides at this bridge by keeping the fences. The last clear chance doctrine deprives the city from defending a wrongful death claim based on the suicide victim's assumption of the risk or contributory negligence. The estates of persons who are thrown off or who are raped or injured through threat of being thrown off the bridge will be able to win personal injury claims, too, since the fences were deemed necessary by Diane Herndon, Esq. to deter such events which have occurred.

The Mayor plans to remove the fences forthwith. The fences reach above eight feet from the ground. Without the fences, the highest part of the railing will be four feet two inches. There are no plans to install any similar suicide prevention device, such as nets which are used elsewhere such as in Guatemala. The Mayor plans to install a 4'2" railing in place of the 3'6" railing, pipe in daily music, widen the sidewalks and encourage yearly jazz festivals on this 125' high bridge.

Over eight million dollars of federal funds are being used to renovate this bridge. If the fences are removed the federal government will be an accomplice in making the bridge unsafe. To put up the fences the city had to certify to the federal government that it the fences were necessary. The federal government has refused to let any of its money be used to pay to take down the fences and the city has not certified to the federal government that the fences are no longer necessary.

Because federal highway funds were used to acquire the fences, if the Mayor removes the fences the District will lose $172,193.30 in the form of a reduction in federal obligation authority available to the District in the fiscal year in which the work order to remove the existing safety fences is executed. The city has only estimates on the cost of (a) detaching the fences, i.e. $40,000.00, (b) adding six inches to the stone parapet and replacing the existing 3'6" railing with a 4'2" railing, i.e. $125,000.00. The cost, therefor, of removing the fences, which includes the original cost, is at least $566,387.00 plus the cost of interest the city or federal government has to pay to cover the cost of borrowing these capital expenditures. One should also include the cost of any personal injury judgments which estates of suicide victims at the bridge may win against the city for negligently making a safer bridge unsafe.

Early support for the fences is evidenced by the attached 1985 letters from City Councilmembers Frank Smith, John Ray and Charlene Jarvis, each strongly supporting the erection of the fences in 1985. The well reasoned, 1985 letters of Mr. Smith and Mr. Ray show that they are absolutely and unequivocally on record in support of the fences as of July and August, 1985.

In his July 12, 1985 letter to Mr. Benjamin Read, whose daughter had jumped from Duke Ellington's bridge in 1979, Councilmember Smith took credit for the design of the fences by saying :

"I, along with the Department of Public Works, have hopefully remedied any concerns of such nature by deciding to install "suicide prevention" fences on the Connecticut Avenue (Taft) and Calvert Street (Ellington) bridges that would be a modification in design from the usual fence used on bridges. The proposed design would entail the railings and fences coming up the front side of the bridges and curving at the top. I think this change in design will provide the safety that we seek as well as a pleasing design." In that same letter, Mr. Smith said: "Although the installation of such fences might not stop all suicides, my hope is they will, at a very minimum, serve as a deterrent to those from jumping off our bridges... It is my feeling that the Government, as a public servant, should always appeal to be humane in looking out for the best interest and safety of all of its residents, regardless of what their state of being may be. Furthermore, health professionals have long recognized that there is a beneficial and deterrent effect in eliminating opportunities that could be acted upon at the spur of the moment."

Councilmember Ray's July 17, 1985 letter shows that he was very aware of the concerns for aesthetics and safety, and concluded: " If we can save at least one life, then installing the fences will be a worthwhile step."

On May 19, 1987 both Mr. Smith and Mr. Ray signed separate letters contrary to and perhaps oblivious to their previously stated positions but made no effort to repudiate nor explain the direct contradiction to their 1985 positions. In effect, both men are on record on both sides of the fence. (copies of those letters are attached.). Mr. Ray's dramatic statement in 1985 that "If we can save at least one life, then installing the fences will be a worthwhile step" continues to ring true even if Mr. Ray ignores his own standard.

In July of 1987, two months after Councilmembers Ray and Smith asserted contradictions to their 1985 positions in writing, there were two days of public testimony heard by the Mayor's special agent, Diane Herndon, Esq. who rendered an eleven page opinion in August of 1987 finding that the permit to build the fences deserved special merit and that there were no reasonable alternatives to the fences. The D.C. Court of Appeals upheld this decision in early 1990. Testimony at that 1987 hearing included facts showing that the fences have saved more than at least one life. Dr. Jeffrey S. Akman, a psychiatrist on the George Washington University Faculty and who lives 11 houses from the bridge, testified that three of his clients have been deterred from suicide by the fences. One was pulled off the fences, while the other two had their impulses to commit suicide blocked by the fences. Other psychiatrists and psychologists testified to the urgent need to keep the fences, including Dr. Alan L. Berman, Wash. Psychological Center, past president of the American Association of Suicidology, Dr. Howard A. Hoffman, President and Medical Director, The Psychiatric Institute of Washington, Dr. Ricardo Galbis, Director of Andromeda Hispano Mental Health Center, Dr. Angelo D'Agostino, S.J. and M.D. Others, such as Robert Perez Robinson, a veteran, testified that he was luckily saved from a suicide attempt at the bridge before the fences were installed: The Bridge seems like it calls out without the barriers there. I wouldn't even have considered it if the barriers was (sic) there at the time."

The data for 1986, 1987, 1988 and 1989 does not show that these fences have not deterred suicide, murder, accidental death or extortion. Since the issue is life, before anyone can rule that these fences are not effective in preventing suicides, the public record should contain convincing and satisfactory proof showing beyond a reasonable doubt that these fences are not effective. Why would victims of suicide deserve a standard of proof less stringent than accused murderers?

The opponents to the barrier fences rely on logical falacies, particulary post hoc, ergo propter hoc. They argue that an event that happens before or simultaneous to another event is the cause of the latter event. So they argue that putting up the barrier caused all persons to use other bridges, or that publicity about the barriers caused later suicides. There is absolutely no fact to support this conclusion.

What proof could possibly show that these various types of tragedies were not avoided in spite of the presence of the fences? First, one must absolutely show that there are no persons alive today whom the fences deterred from committing suicide. This cannot be done, since some of those persons, their friends or psychiatrists in testimony before the Mayor's agent, Diane Herndon, Esq. in July of 1987 established uncontradicted facts that the fences have deterred suicides in their July,1987 testimony before the Mayor's agent, Diane Herndon. Since they lose on this point, the opponents lose the factual support for their argument. Second, the opponents to the fences would also have to show that each of the persons who would have committed suicide from the Duke Ellington Bridge if the fences were not there, in fact committed suicide elsewhere. Such proof is impossible, since persons have testified that the fences deterred them and since the opponents have no way of knowing the totality of names of persons who otherwise would have committed suicide from the Duke Ellington Bridge if the fences were not there.

It appears to me that the opponents to the fences prefer to think in categories of a "belief" that all persons who would commit suicide at the bridge without the fences will do it some other way inspite of the fences. This "belief" is a type of predestination theory, which denies free will, chance, change, etc.

The opponents to the fences mislead the public by asserting false facts. For example, they assert that five persons committed suicide from the Taft bridge in 1986 following the erection of the fences at the Duke Ellington Bridge. In 1989, the Mayor distributed data showing that three, not five. persons committed suicide at the Taft Bridge in the one year after the January 28, 1986 erection of the Duke Ellington Fences. In 1987 the Medical Examiner's office certified a report which was part of the public hearing and part of the record on appeal, also showing that three, not five, suicides occurred at the Taft bridge in the year after the Ellington fences were installed. In 1985 one suicide occurred at the Taft bridge, but three occurred also in 1982 and there were six in 1980 and two in 1979. It is deliberately false and misleading for opponents of the fences to say that suicides jumped to "500%" increase at the Taft bridge following the installation of the fences.

In his 1985 letter, Councilmember Frank Smith took credit for the design of the fences that were to be installed at both Taft and Duke Ellington Bridge. Taft bridge was the second most used site for suicides from 1979 through 1985, everyone knew it and Mr. Smith was proud of his efforts then to get fences at both the Taft and the Ellington bridge. No fences were ever installed at the Taft and since the fences were installed at the Ellington, the Taft has not repeated its 1980 number of 6 in that year, but has had 3 in 1986, 2 in 1987 and 2 in 1988. Only one person has committed suicide from the Ellington Bridge between January 28, 1986 and the last date data is available, July 3, 1990.

Opponents to the fences also mislead the public by spreading false facts about suicides at the Ellington bridge before and after the erection of the fences. From 1979 through 1985 there were 24 suicides at the Ellington bridge, accounting for 54% of all bridge suicides in the District. In the same period of time there were 12 suicides at the Taft bridge. The opponents to the Ellington fences delayed the completion of the fences in late 1985 and there was a death in 1986, which prompted the Mayor to complete them on January 28, 1986. The opponents claim that three persons have jumped from the bridge from the time the fences were installed until the end of 1988.

In fact, one of those three alleged "jumps" is described in the police report as having fell, not jumped. He only suffered abrasions on his arms and legs. He is alive and well today and can verify that he was in the shallow area near the side of the bridge and did not try to commit suicide. The police department has confirmed that one of the other two alleged Ellington Bridge suicides was in fact directly under the Taft Memorial bridge. Instead of three jumps, therefor, the record shows only one jump, a July 1986 suicide.

The opponents also imply that other bridges have been used by those who would have used the Ellington Bridge but for the fences. Not only is this not provable, but there is no evidence to support this "belief" either. There were five other bridges used from 1982 through 1985. There are no tables that I know of which show how many of the city's 330 bridges have been used, off and on, to commit suicide. No one is able to say, therefore, that more bridges are being used to commit suicide since the fences were erected. The city has suicide statistics since 1939 at least, but no one from the government has bothered to keep track of which suicides occur at which bridges. Two of the seven bridges used between 1979 and 1985 have not been used since 1986 and nine others have had at least one suicide from 1986 through 1988. 1986 was a 30 year high for suicides of all types in D.C. which explains why 5 bridges were used for the first time that year since 1979, only one of which was used in 1988 or 1989. Even before the fences were erected, each year one to three bridges were used for a suicide for the first time in any three year period. We know that the six deaths from bridge suicide in both 1987 and 1988 and the 3 suicides from bridges in 1989 are lower than the nine deaths of 1979, the 10 deaths of 1980, the seven deaths of 1986, the eight deaths of 1984, the nine deaths of 1985 and the 13 deaths in 1986. We also know that the unprotected Taft bridge has had 10 of the 28 suicide deaths at bridges in 1986 through 1989. The Taft bridge is still unprotected, even though the D.C. Mental Health Services Administration issued a 1987 report which said that it was urgent, if fences could not be installed until after its renovation, that at least helpline telephones be installed. Opponents to the fences have used this 1987 report for their incorrect number of 5 suicides at the Taft, but they fail to use the report for its urgent cry to install both fences and helpline telephones at both the Taft and the Ellington in 1987.

The Mayor has a duty to keep the fences at the Duke Ellington Memorial Bridge. That duty is set forth in the 1987 opinion of his special agent, whose opinion the D.C. Court of Appeals has upheld this year. If those fences are taken down it will display a reckless disregard for human life and justify a jury to award punitive damages against the city and possibly the engineers and even contractors responsible for following the Mayor's orders.

Very truly yours,

Myles Glasgow

Myles Glasgow

Attachment Index

Facts and Issues concerning the Public Safety Fences at the Duke Ellington Memorial Bridge by Ben Read for the Committee for Public Safety at the Duke Ellington Memorial Bridge

Table 1, Comparing All Suicides in D.C. with Leaping Suicides and Bridge Suicides from 1979-1988

Table 2, Comparing Bridge Suicides in D.C. citywide with those at Taft and Ellington bridges 1979-1988

Table 3, Showing bridges used for Suicides in D.C. from 1979-1988

Table 4, Showing number of bridges used for Suicides in D.C. from 1979-1988.

July 12, 1985 letter from Councilmember Smith

July 17, 1985 letter from Councilmember Ray

July 1, 1985 letter from Councilmember Jarvis

May 19, 1987 letter from Councilmember Smith

May 19, 1987 letter from Councilmember Ray

August 20, 1987 Order and Opinion of the Mayor's Agent, Diane L. Herndon, Esq.

January 18, 1990 Memorandum Opinion and Judgment of the District of Columbia Court of Appeals affirming the August 20, 1987 Order and Opinion of the Mayor's Agent, Diane L. Herndon, Esq.

April 1990

FACTS AND ISSUES CONCERNING THE PUBLIC SAFETY FENCES AT THE DUKE ELLINGTON MEMORIAL BRIDGE

Members of the Committee for Public Safety at the Duke Ellington Memorial Bridge are of the view that erroneous and misleading statements have been circulated and published recently concerning the facts and issues relevant to the importance of the public safety fences on the bridge in deterring suicides, crime, and accidents by and to persons passing on and under the bridge.

Accordingly, the Committee is setting forth in this memorandum the facts of public record of which it has certain knowledge and its view of the relevant issues.

Committee members invite any one who represents the persons and groups that may challenge any of the facts set forth here to meet with a representative of the Committee and an impartial third party agreed upon by both sides to determine the validity of the points at issue, so that the merits of the matter may be determined as nearly as possible on an agreed set of facts.

This memorandum addresses the four questions most often asked:

... Have the fences reduced suicides at the bridge?
... Have those deterred committed suicide elsewhere?
... Have the fences also deterred crime and accidents?
... Are there effective alternatives to the fences?

1. Suicides deterred at Bridge

The safety fences were constructed by the Barry Administration more than four years ago to enhance public safety and deter suicides at the Ellington Bridge, where many persons had died in the preceding years.

As Judge Wertheim stated in the opinion he rendered on March 27, 1986, in Butler vs. D.C. Department of Public Works, Civil Action No. 0084-86:

> "During the period 1979 through 1985 there were a total of 24 suicides from the (Ellington) Bridge, representing more

than half of all suicides from the approximately 330 bridges in the District of Columbia."

It cannot be disputed that suicides at the Ellington Bridge have been deterred by the presence of the fences. The official records of the D.C. Medical Examiner made available to date as set forth below show that there were 25 suicides at the bridge in the 7.08 years (1/1/79-1/28/86) before the fences were completed -- an average of 3.54 per year, compared to 1 suicide in the 2.92 years (1/28/86-12/31/88) after the fences were in place -- an average of 0.34 per year. Final Medical Examiner data for 1989 and 1990 to date, though requested, is not yet available, but Committee members know of no suicide that has been confirmed at the bridge during this period.

Before Fences Completed (1/28/86)

1979	7
1980	4
1981	1
1982	1
1983	0
1984	5
1985	6
1986	1 (on 1/17/86)

Total (25)
Aver. 3.54 deaths/yr

After Fences Completed

1986	1 (on 7/28/86)
1987	0
1988	0

Total (1)
Aver. 0.34 deaths/year

Sources: D.C. Medical Examiner records, as set forth (a) for 1986-1988 in attachment to Mayor Barry's letter of Feb. 17, 1989 to Marilou Righini, entitled "Situation Analysis of Suicides on the Duke Ellington and Taft Bridges" and as provided in a 2/89 response to an F.O.I.A. request by B.H.Read from the D.C. Commission on Public Health; (b) for 1979-86 in Medical Examiner certification dated July 8, 1987, which was entered as exhibit 7 in the court record of Kalorama Citizens Assn., et al vs D.C. Department of Consumer and Regulatory Affairs, (D.C.) Court of Appeals, CA 87-1052.

2. Suicides elsewhere in City

A question often raised is whether those who might have committed suicide at the Ellington Bridge but were deterred from doing so because of the fences just committed suicide elsewhere.

Since the identity of most such persons is unknown, a definitive answer is not possible, but circumstantial evidence indicates that many such persons did not proceed to do so at another site.

(a) Rescues by Police and Others. Metropolitan police and others have been able to rescue several persons who were attempting suicide at the bridge, which they would not have been able to do if there had been no fences. A "Summary Sheet" dated Aug. 1, 1989, put out by Advisory Neighborhood Commission 3-C notes that "at least five attempters have scaled the fences" since the fences were completed, and as the Medical Examiner data indicates there has been only one death during the 1986-88 period.

(b) Psychiatric Help Sought by Others. Dr. Jerry Weiner, head of the department of psychiatry at the G.W.U. Medical Center and former president of the American Academy of Child Psychiatry, and Dr. Jeffrey S. Ackman, another G.W.U. psychiatrist, have each seen patients during the last four years who went to the bridge intending to commit, were deterred by the fences, and subsequently sought their professional assistance. Dr. Ackman, who lives just eleven houses from the Ellington Bridge on Calvert Street, stated in a letter dated April 7, 1989 to the Mayor, which was read aloud by Dr. Michael Sanders in the Mayor's presence at a town meeting 3 days later:

> "I strongly support the presence of the current suicide prevention fences on the bridge. I have had one patient who was depressed with AIDS who was pulled off the fences by the D.C. police while trying to kill himself. I have had two other patients tell me that their impulse to suicide was blocked by the presence of the fences. As a mental health professional I am aware of how effective the fences are."

The danger posed by a notorious suicide site which has no physical safeguards like the Ellington Bridge prior to 1986 has been addressed by two experts.

Dr. Howard A. Hoffman, president and medical director of the Psychiatric Institute of Washington, stated in a June 19, 1985 letter to Mayor Barry urging construction of the fences:

> "It is well known that the Calvert Street Bridge is the most lethal of the area bridges. We know that many people are driven to such sites in bits of despair. ... Impulses can be acted upon quickly at a bridge like the Calvert Street Bridge (in the past)."

Dr. Alan L. Berman of the Washington Psychological Center and past president of the American Association of Suicidology has stated:

> "The (US) Health and Human Services Task Force on Youth Suicide urged authorities to 'limit access to bridges...from which young people are likely to jump to their death.' The Ellington Bridge has long been Washington:s 'suicide landmark.' I strongly urge your support for the barriers."
> - Letter to Mayor Barry dated June 24, 1987.

(c) Citywide Suicide Average Down. Total suicides in the District of Columbia averaged 96 per year for the period from 1939-1986 with low/high records of 61 and 193 according to data of the D.C. Department of Human Services attached to Mayor Barry's letter of Feb. 17, 1989, to Marilou Righini. For the 1986-87-88 period citywide suicides averaged 83 - a decrease of fourteen percent -- and reached a new low record of 60 in 1988. The FOIA response, cited above lists 59 suicides in 1988.

Strictly speaking, of course, suicides that occurred elsewhere in the city are not relevant to the District's obligation and stated objective to deter suicides and enhance public safety at the Ellington Bridge, the highest in the city at 135 feet, which had become the most notorious suicide magnet site in the City (or environs) by a significant margin. That purpose has been accomplished. To argue otherwise, as has been done, could be compared to urging removal of a traffic light at one intersection where deaths had occurred until the light had been installed because traffic deaths at other intersections had not been deterred.

The District Government did not claim that the safety fences would prevent all suicides at the bridge or deter them elsewhere in the city. It built them as a necessary public safeguard at a public site where many deaths had occurred in line with its established policy of erecting fences on bridges with a history of or a potential for public safety problems. This has been done at some forty other city overpasses.

For that reason Committee for Public Safety members see no relevance in data which has been presented by fence opponents relating to suicides from the nearby Taft Bridge or from other District bridges or from privatelyy owned high places. The Mayor's Agent came to a like conclusion. She stated that:

> "I find that the record does not support any nexus between the erection of the safety barriers and the increase of suicide citywide, the increase in bridge suicides, or the increase in the number of bridge sites used. Nor does the record support the theory that suicide attempters are merely redirected to other sites. (T. 48-49, 75, 79, 402-403, 535-536)." Opinion and Order, p. 7.

If one examines the points adduced by fence opponents on these issues seem on these points, it is difficult to draw any clear lessons. Medical Examiner data, for instance, indicates that suicides at the Taft Bridge numbered 12 from 1979-1985 with yearly low/highs from 0 to 6 (in 1980) compared to 6 deaths from 1986-87-88 (3,1,and 2 respectively). Other such data shows that suicides occurred at 12 different District bridges from 1979-85 and 14 bridges from 1986-88, but although citywide suicides including suicides from bridges were high in 1986, there were only six suicides from all city bridges in 1987 and in 1988 -- the same number or less than occurred in 1985 or in 1979 from the Ellington Bridge alone before the fences were in place.

3. Crimes, Accidents, and Vandalism also Deterred by Fences

Crime, accidents, and personal injury and property damage, and vandalism have all been effectively deterred by the safety fences on the Ellington Bridge -- something that fence opponents have failed to acknowledge or address -- and that such incidents would be bound to recur if the fences were removed.

At an extensive two-day, formal administrative hearing held in July of 1987 by Diane L. Herndon, Esq., the Mayor's Agent, at which a record of 600 pages of testimony and several dozen exhibits were introduced by proponents and opponents of the Ellington Bridge safety fences, several witnesses testified about the problems of crime, accidents, and vandalism to passerbys on and under the bridge.

Mrs. Yvonne Toler gave sworn testimony about the night-time abduction of her 24-year old daughter, a teacher in the District public school system, from her apartment in southwest Washington in 1985 just weeks before the fences were erected, her forced removal of funds from a branch bank at 18th Street and Columbia Road, and her homicide immediately thereafter by her captors who threw her off the Ellington Bridge. (Transcript, p. 270).

Jesuit priest and psychiatrist, the Rev. Dr. Angelo D'Agostino, testi-fied that he missed death by seconds in 1982 when a body falling from the bridge struck the car just in front of his on the road below the bridge. (T. 173).

Prof. Hilda Findley-Knier, who lives adjacent to the bridge testified to her own fear of crime crossing the bridge on foot before the fences were built after a young student friend of hers had been threatened with being thrown over the bridge by a group of thugs demanding money from whom he narrowly escaped on foot.

Michael Greenwood, another close neighbor, testified that "Before they put the barriers on the ellington Bridge, while I was walking across the bridge, I used to feel paranoid because voices wanted me to jump off. It scared the hell out of me. I would like the Mayor to keep the fences up." (T. 342)

Testimony was also given by a city official that debris thrown from the bridge could result in substantial harms to users of the Rock Creek Park drive below the bridge. (T. 135).

Mayor's Agent Herndon concluded in her opinion and order:

> "While the primary focus has been on the effectiveness of the barriers as a suicide deterrent at the Ellington Bridge, I find that the facts illustrate that there are other significant public safety issues in the case." D.C. Dept. of Public Works vs. ANC's 1-C and 3-C, et al., HPA No. 87-377 (p.2)

At the Mayor's town April 10, 1989, meeting about the safety fences, Orazio Miceli, who also lives close to the bridge, stated that he had been thankful for the presence of the fences when he had been chased across the span at night by a street gang sometime after the completion of the fences.

Before the fences were built, parent of young children who walked across the bridge twice daily to the nearby elementary school and were often seen playing on or near the old 3'8" railings, used to be fearful of accidental falls. One parent wrote:

> "I drive across the Duke Ellington Bridge at least twice a day because my children go to nearby Oyster Elementary School. Many of the schoolmates walk across the bridge, as do other neighborhood children. As a parent, I would be very

unhappy if the guardrails on the bridge were taken down. I fear possible accidents that might result from children playing on the bridge." - Letter dated July 8, 1987 from Linda Ohmans to Mayor Barry.

It is important to realize that this is citywide and broader issue of public safety, not just a neighborhood one. D.P.W. witnesses at the 1987 administrative hearing testified that "20,000 vehicles use the roadway under the bridge daily, and there is also considerable public activity on both the bike path and parkland below the bridge." Herndon opinion and order, p. 5. At least as many or more vehicles cross the bridge itself each day in addition to an unknown number of pedestrians.

There is no evidence in the record since the fences were built homicide by persons being thrown from the bridge, as happened to Mrs. Toler's daughter. It would be difficult indeed to throw a person struggling for life over an 8 foot barrier. Similarly there is no evidence of accidents to persons below, such as occurred to Father D'Agostino by falling bodies or objects, and no evidence of accidental falls.

4. Bridge Fence Precedents and Lack of Effective Alternatives

Precedents in other jurisdiction clearly show that physical barriers such as fences are the sole effective means of deterring deaths at sites which had become notorious suicide sites.

At the 1987 administrative hearing a memorandum on "Suicide Constraints in Other Jurisdictions: Fences/Phones/Other" was discussed and made part of the record of proceedings as an exhibit. Mayor's Agent concluded on page 7 of her opinion that

> "Protective barriers have significantly reduced the incidence of suicide at other popular sites across the nation: the Arroyo Seco Bridge (in Pasadena, CA), the Cape Cod Canal Bridges, the Empire State Building, and the Seattle Space Needle. (T. 46-48, 323-326, DHS Report)."

Indeed such evidence indicates, as Mayor Barry was informed by letter urging higher fences at the Ellington Bridge when that question was under consideration in 1985, that barriers of nine feet (as in the chain link fences over many other D.C. overpasses) or more had prevented all suicides at such other sites, while slightly shorter ones had markedly reduced suicides, as borne out by the data cited above.

Hotlines to crisis center at such locations, as proposed in lieu of the fences at the Ellington Bridge, are worthwhile and have often resulted in needed medical and other forms of help when used elsewhere but have not altered suicide rates. Mayor's Agent Herndon concluded:

> "The DHS Report examined the 'dedicated lines' telephone system installed on the Mid-Hudson bridge in Poughkeepsie, New York....The phones were connected to 24-hour community mental health center emergency unit. A recent evaluation of the effectiveness of the bridge phones conducted by the

> Dutchess County Department of Mental Hygiene found that while the incidence of suicides remained the same, the system did identify a number of individuals in need of psychiatric treatment." Opinion, p.8.

Other forms of constraints cannot be relied on as providing effective deterrents to suicide or crime. D.C. Government "rejected increased police patrols at the bridge as an effective suicide deterrent," as the Mayor's Agent noted. (Opinion, p.6)

The "Suicide Constraints" memo cited above contained evidence that round-the-clock television cameras, marked and unmarked patrol cars, and phones have not proved effective in deterring the high rate of deaths at the Golden Gate Bridge.

Ms. Herndon also considered five other suggested alternatives -- suicide prevention education, stationing a suicide prevention counselor on the bridge full-time, installation of nets beside and below the bridges, posting of police trainees at the bridge full-time, and encouraging commercial vendors to operate at the site. She found, however, that none of these suggestion provided adequate protection for the public.

The case for retaining the public safety fences at the Ellington Bridge was summarized by Mayor's Agent Herndon:

> "Based on the evidence of record, the Mayor's Agent finds that erection of the barriers is a project of special merit that must be balanced against the damage done to the architectural integrity of the bridge. I find that the Applicant (D.C.Dept. of Public Works), in designing the safety barriers, revised its design to minimize the impact on the historical and aesthetic value of the bridge. Furthermore the opposition failed to present an alternative barrier design less architecturally offensive. The present design represents a compromise between the legitimate public safety concerns of the Applicant and the architectural integrity of the bridge. I conclude that:
>
> (1) the barriers have significant benefits because they deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge;
>
> (2) the special merits of the barriers outweighs any infringement upon the architectural integrity of the Ellington Bridge; and
>
> (3) there are no reasonable alternatives to the safety barriers." (Opinion and Order, HPA 87-377, p. 11.)

On January 18, 1990, a three-judge panel of the District of Columbia Court of Appeals, affirmed the Mayor's Agent order.

Chart 1

Bridges and Suicides, Washington DC 1979-1989

Bridge	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Total
Ellington	7	4	1	1		5	6	2				26
Taft	2	6		3			1	3	2	2	3	22
Chain				1						1		2
S. Capitol				1								1
11th St.				1		2		2	1			6
Key						1	1	1				3
Wilson							1					1
Glover								1				1
E St.								1				1
Other								1				1
Mass Ave.								1				1
Sousa								1	1			2
15th St									1			1
14th St.									1	1		2
Memorial										1		1
Spout Run										1		1
Total	9	10	1	7	0	8	9	13	6	6	3	72

Chart 2

Bridge Suicides, Citywide
Washington DC 1979-1989

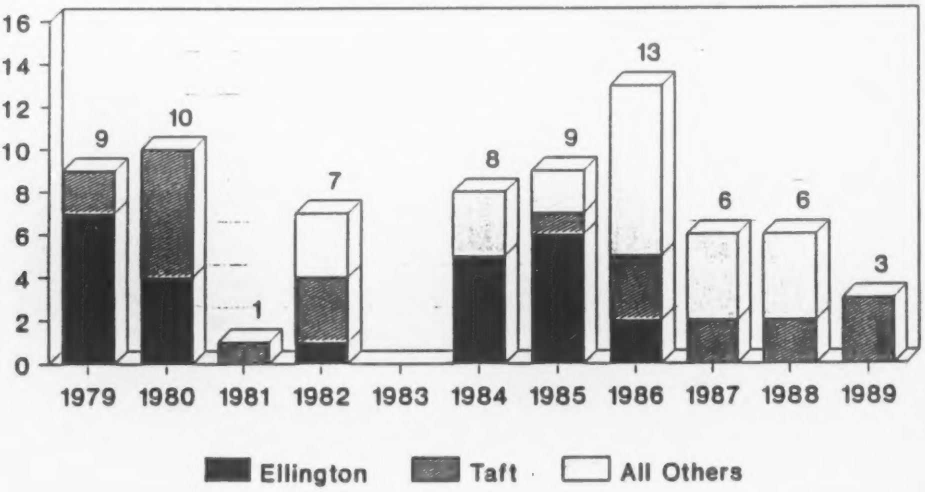


Chart 3
Bridge Suicide Distribution
Washington DC 1979-1989

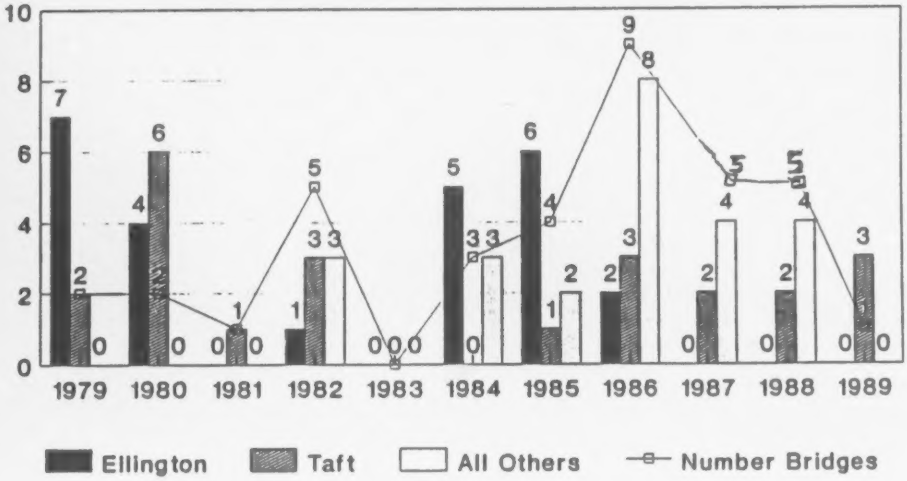
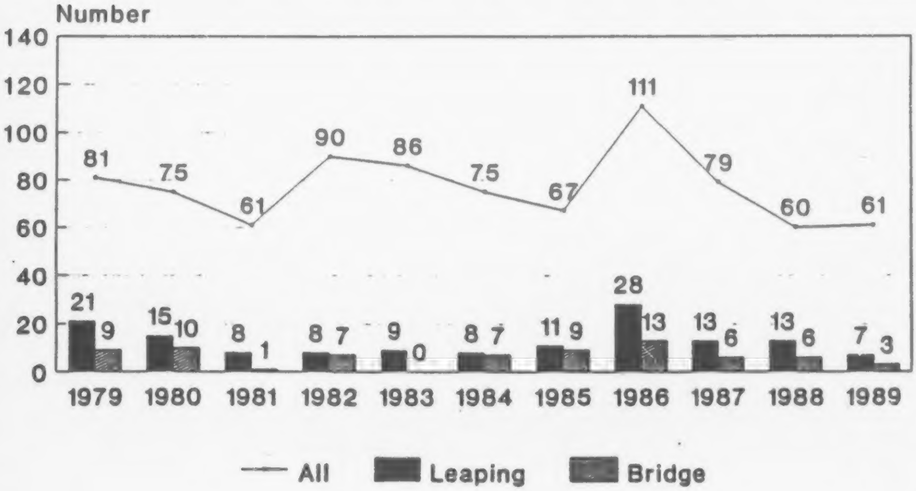


Chart 4
Suicides: Bridge, Leaping, & Total
Washington DC 1979-1989



LETTER FROM FRANK SMITH, JR., COUNCILMEMBER, COUNCIL OF THE DISTRICT OF COLUMBIA

July 12, 1985

Benjamin H. Read
1739 Crestwood Drive, N.W.
Washington, D.C. 20001

Dear Mr. Read:

I would like to take this opportunity to thank you for your concern and support in the construction of "public safety fences" at the Duke Ellington Bridge.

As you are probably aware, several Ward 1 residents have expressed concerns about the un-attractiveness of a proposed fence at the bridge, in spite of the numerous reported suicides that have taken place at this site. I, along with the Department of Public Works, have hopefully remedied any concerns of such nature by deciding to install "suicide prevention" fences on the Connecticut Avenue (Taft) and Calvert Street (Ellington) bridges that would be a modification in design from the usual fence used on bridges. The proposed design would entail the railings and fences coming up the front side of the bridges and curving at the top. I think this change in design will provide the safety that we seek as well as a pleasing design.

Although the installation of such fences might not stop all suicides, my hope is they will, at a very minimum, serve as a deterrent to those from jumping off our bridges. It is my feeling that the Government, as a public servant, should always appear to be humane in looking out for the best interest and safety of all of its residents, regardless of what their state of being may be. Furthermore, health professionals have long recognized that there is a beneficial and deterrent effect in eliminating opportunities that could be acted upon at the spur of the moment.

Again, thanks for your concern and support of this most important matter.

Sincerely,

Frank Smith, Jr.

LETTER FROM JOHN RAY

July 17, 1985

Mr. Louis B. Dodson
1747 Shepherd Street, N.W.
Washington, D.C. 20011

Dear Mr. Dodson:

Thank you for writing to me regarding the proposed installation of the wrought iron fences at the Duke Ellington and Taft bridges. I do very much appreciate your sharing your views with me.

The fences have evoked a great deal of concern during the past several weeks. There are those who want them because of the numerous suicides that have occurred in the past years and the fear of those that might occur in the future. Proponents of the fences believe this step will save lives, and they are eager to have them installed. On the other hand, there are those who feel that the fences will change the aesthetic character of the area, and they have requested that they not be installed.

I have carefully considered each person's viewpoint and I have discussed the matter with Mr. John Touchstone, director of the Department of Public Works. Mr. Touchstone informed me that because of the number of suicides and the danger these bridges present to individuals, the department is firm in its belief that the fences are necessary.

Mr. Touchstone reports that there have been 33 suicides at these bridges since 1978. Reports from the medical examiner's office show that no other bridge within the District of Columbia has accounted for anything remotely approaching the incidence of suicides at these bridges.

Mr. Touchstone further informed me that attempts to discourage suicides with regular police patrols have not been successful.

In designing the fences, the views of the Commission of Fine Arts, the State Historical Preservation Office and the Advisory Council on Historic Preservation were considered. Every effort has been made to provide an effective safety fence which will not compromise the architectural character of the bridges.

Based on these findings, I support the department's decision to install the fences and hope that they succeed in preventing suicides. If we can save at least one life, then installing the fences will be a worthwhile step.

Thank you again for taking the time to write. Please continue to share your views with me, and call on me whenever I can provide assistance.

Sincerely yours,

John Ray
Councilmember at-Large

LETTER FROM CHARLENE DREW JARVIS, COUNCILMEMBER, COUNCIL OF THE DISTRICT OF COLUMBIA

July 1, 1985

Mr. Benjamin H. Read
1739 Crestwood Drive, N.W.
Washington, D.C. 20011

Dear Mr. Read:

Thank you for your letter of June 23, 1985. I am indeed sorry that communication to me became necessary, but I am grateful to you for taking the time to write.

You have experienced a tremendous loss in your family. Please accept my most profound sympathy.

I would of course be willing to meet with you and your wife.

In the interim I have conveyed your concerns to the Department of Public Works and will follow-up on your request that a safety fence be placed at the Duke Ellington Memorial Bridge. You have my full support.

Again, thank you for giving me the opportunity of working with you on this important matter.

Sincerely,

Charlene Drew Jarvis

CHARLENE DREW JARVIS

LETTER FROM FRANK SMITH, JR.

May 19, 1987

James T. Speights, Jr.
Chairman
Historic Preservation Review Board
614 H Street, N.W.
Room 305
Washington, D.C. 20001

Dear Mr. Speights:

The problem of suicide is something that most citizen's are dealing with as society becomes more complicated and people become more sensitive to the issues of life. This is a caring city that has often demonstrated its intent to house the homeless, treat the mentally ill, and otherwise provide a wholesome atmosphere for growth and development.

In recent years, the Duke Ellington Bridge has received a great deal of attention as a place of choice for persons wishing to commit suicide. The Executive has responded to this problem by placing barriers on the structure that are now the subject of court orders, permit review, and decision by the Historic Review Board. The present fence is poorly designed and does not suit the historical character of the bridge nor provide the safety that all of us promised.

My proposal to the Mayor was that protective nets be attached to Duke Ellington Bridge, and phones be installed on each end so that persons wishing to jump would be caught and people passing on the bridge would be able to call for assistance if needed. This is one suggestion, and I am sure there could be others. For example, a public competition could be established that would invite persons to submit proposals for designs that would make the bridge safe while also respecting Duke Ellington's celebration of the spirit of life. This appears to be a desirable direction, especially in view of the fact that the current fence is not a complete barrier against suicide. Also, it is not in keeping with the historic nature of the Duke Ellington Bridge. I invite the board to explore these areas in order that our dual public purposes of safety and historic character may be achieved.

Sincerely,

Frank Smith, Jr.

LETTER FROM JOHN RAY

May 19, 1987

Mr. James Speight, Jr.
Chairman
D.C. Historic Preservation
Review Board
Room 305
614 H Street, N.W.
Washington, D.C. 20001

Dear Mr. Speight:

This letter is to express my support of the action taken by ANC 1C and ANC 3C to oppose the Department of Public Works application (H.P.A. number 87-377) to retain "suicide barriers" on the Duke Ellington bridge.

As you know, the D.C. Superior Court handed down a decision on March 27, 1987, stating that the Department of Public Works' installation of these barriers violated two city ordinances. The department did not give the ANCs their statutory notice of construction, nor did the department follow the Historic Preservation Board's review process.

Moreover, I see no convincing evidence that the barriers are an effective means of preventing suicide. The city has a serious suicide problem, particularly among young people, but the solution requires more and better mental health care, family counseling, treatment for drug and alcohol abuse, and other means of intervention to deal with the root causes. A barrier at a bridge is no solution at all.

In light of these factors and the overwhelming community sentiment in opposition to the barriers, I urge you to give the opinion of the ANCs great weight in rendering your final decision in this matter.

Sincerely,

John Ray
Councilmember at-Large

APPLICANT,

District of Columbia
Department of Public Works,

IN OPPOSITION,

Advisory Neighborhood
Commissions 1-C and 3-C, *et al.*,

AND

D.C. Preservation League

HPA No. 87-377

OPINION AND ORDER

INTRODUCTION

This matter came before the Mayor's Agent for D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978, codified as D.C. Code §5-1001 *et seq.* ["the Act"] on an application for a building permit to retain safety barriers on the Duke Ellington Memorial Bridge ("Ellington Bridge"), an individually designated historic landmark located at Calvert Street, Northwest, between Woodley Place and Biltmore Street, Northwest. The application was submitted by, the District of Columbia Department of Public Works ("the Applicant" or "DPW"). Advisory Neighborhood Commissions ("ANCs") 1-C and 3-C, the Kalorama Citizens Association, Woodley Park Community Association, Harold Smith, Philip Mendelson, Josephine Butler, George Frain and William Rogers ("the ANC Opposition") jointly filed a request to participate as a party in the proceeding in accordance with Rule 3.4 of the Rules of Procedures governing Mayor's Agent hearings.

The D.C. Preservation League, ("the League Opposition") filed a request for an extension of time to file for party status herein and was permitted to participate as a party to the proceeding. Testimony was received on this matter during public hearings held on July 10, 1987 and continued July 14, 1987.

On May 20, 1987, the permit application was reviewed by the Historic Preservation Review Board ("HPRB") pursuant to the Act, and HPRB recommended against granting the permit on its determination that the safety barriers were not compatible with the architecture of the Ellington Bridge. (Exhibit No. 3).

The Commission of Fine Arts ("CFA") reviewed the permit application pursuant to the Old Georgetown Act, D.C. Code §5-801 *et seq.*, and transmitted a recommendation against granting the permit, dated *June 9, 1987* to the Mayor's Agent. (Exhibit No. 4).

This matter has also been litigated in both federal court and a court of the District of Columbia. On August 17, 1985, various historic preservationist and community organizations filed suit in the United States District Court for the District of Columbia, seeking to enjoin further work on the bridge and to require the Federal Highway Administration ("FHWA") to evaluate alternatives to and the environmental consequences of the barriers. *National Trust for Historic Preservation* v. *Elizabeth Dole, et al.*, ("*Dole*"). *C.A. No. 85-2749.* The District Court found that FHWA was not statutorily bound to conduct such evaluations and granted summary judgment accordingly. The United States Court of Appeals affirmed the lower court decision on June 2, 1987.

On January 3, 1986, a complaint was filed in Superior Court of the District of Columbia for preliminary and permanent injunction, seeking to restrain the defendants DPW and Mayor Marion Barry, Jr. from continuing construction of "suicide barriers" on the Ellington Bridge. *Butler, et al.* v. *District of Columbia Department of Public Works, et al.*, March 27, 1987, C.A. No. 0084-86. The case was heard by Judge Ronald Wertheim who granted plaintiffs' Cross Motion for Summary Judgment except insofar as it was necessary to hear evidence to resolve questions of defendant's administrative practice in applying the D.C. Building Code to bridges and on issues of irreparable harm and the public interest affecting the potential relief to be granted.

With respect to these issues, the Court found that defendants DPW and Mayor Barry did not follow applicable law in that they: 1) failed to adhere to the procedures set forth in D.C. Law 1-27, D.C. Code §1-251 et seq., ("the ANC Act") which established the Advisory Neighborhood Commissions, by not providing the affected ANCs with sufficient notice of the safety barrier project and by not according "great weight" to the issues and concerns raised by the ANCs as required by the ANC Act; and 2) failed to adhere to the procedures mandated by the Act by not filing a permit application for the barrier proposal with the Department of Consumer and Regulatory Affairs ("DCRA"). Consequently, there was no review of the barrier proposal by HPRB and no recommendations by HPRB forwarded to the Mayor. Furthermore, there was no public hearing on special merit held by the Mayor.

The Court ordered DPW to file with DCRA an application for a building permit to retain the barriers. DCRA was to refer the permit application promptly to the HPRB for a recommendation to the Mayor's Agent who was directed to make a finding within 120 days after receipt by the HPRB of the referral from DCRA as to whether retention of the barriers is necessary in the public interest.

The Applicant filed the application permit with DCRA in accordance with the court order and pursuant to Section 6 of the Act. DCRA referred the permit to HPRB and HPRB, as stated earlier, recommended against granting the permit. The matter was then referred to the Mayor's Agent for an evidentiary hearing. The Applicant contends that the alteration of the Ellington Bridge by retention of the safety barriers is necessary in the public interest because it constitutes a project of special merit. The claim of special merit is based upon the Applicant's argument that the barriers have both reduced the incidence of suicide at the bridge site and improved overall public safety at the site, and that these public safety objectives are of significant benefit to the District of Columbia and the community. The Applicant contends that the public need for the barriers outweighs any infringement upon the architectural integrity of the bridge.

The Opposition (The ANC Opposition and the League Opposition) argues that: 1) the architectural integrity of the bridge has been significantly violated by the construction of the barriers; 2) passive site-specific barriers on bridges are ineffective as suicide deterrents; 3) most acts of suicide are premeditated and not impulsive acts, therefore barriers merely redirect determined suicide attempters to other places to commit the act of suicide; 4) the statistics are not compelling that the barriers have reduced suicide at the site; 5) moreover, the incidence of suicide citywide has increased, as has the number of bridges being used; 6) funds used for the construction of the barriers would be more effectively spent if used in developing comprehensive suicide prevention programs; 7) the Applicant's concern at the time of construction of the barriers was suicide prevention and not overall public safety; and 8) the Applicant proceeded to erect the barriers without consultation with mental health professionals and without consideration of other reasonable alternatives more effective as suicide deterrents.

In accordance with the provisions of the Act and Butler, supra, timely notice having been given to the ANCs 1-C and 3-C and great weight given to the issues and concerns raised by the ANCs, the Mayor's Agent enters these Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Ellington Bridge is an historic landmark, having been listed in the District of Columbia Inventory of Historic Sites since 1973. The bridge was completed in 1935 and is a major design by Paul Phillipe Cret, one of the nation's foremost architectural experts of the classical school, in association with the engineering firm of Modjeski, Masters & Chase. Dr. Elizabeth Grossman, expert witness for the ANC Opposition, testified

as to the architectural significance of the bridge as a reflection of Cret's devotion to proving that classicism was still a viable language applicable to modern structural framing. (T. 124).

Cret saw two possibilities in bridge design: one expressing a steel-span tension as demonstrated by the Klingle Valley Bridge; the other expressing "that intensified feeling of solid and immovable repose" as demonstrated by the Ellington Bridge. (T. 125-126). The idea of the bridge as a public space was presented as another important concept in Cret's work.

Dr. Grossman presented testimony that the metal barriers not only destroy the long stable lines of Cret's design, but also confuse the difference between the Ellington Bridge and the Klingle Valley Bridge. (T. 126). The barriers were alleged to destroy the sense of public space that Cret wanted the bridge to accomplish. (T. 127).

The successor architectural firm of Cret, H2L2 Architects/Planners, suggested, by letter, that the barriers have caused structural damage. There was no evidence presented that the firm inspected the bridge after the erection of the barriers, and a representative of the firm was unavailable for cross-examination. The evidence presented on the architectural significance of the bridge was undisputed and I credit the testimony of the expert witness for the ANC Opposition.

2. Uncontroverted evidence shows that prior to the construction of the safety barriers on the Ellington Bridge, the bridge was the most frequent bridge suicide site in the District, with 24 cases reported between 1979 and 1986. This figure is compared to a total of 57 bridge suicides during the same time period. The total of suicides from the Ellington Bridge represents approximately four to five percent of all suicides in the District. (The Department of Human Services Report, "DHS Report", Exhibit No. 7). The bridge is approximately 135 feet above the Rock Creek Park roadway. Prior to the erection of the barriers, the exterior walls of the bridge were approximately 3 feet 8 inches when measured from the sidewalk on the bridge. (T. 139, Exhibit No. 1). After the erection, the barriers were approximately 8 feet high when measured from the sidewalk. (T. 348). The evidence demonstrates that the Ellington Bridge was a popular site for bridge suicides.

3. Approximately $200,000 was expended to construct the safety barriers on the Ellington Bridge with the federal government funding eighty percent of the project costs, and the District government funding twenty percent.

4. While the primary focus has been on the effectiveness of the barriers as a suicide deterrent at the Ellington Bridge, I find that the facts illustrate that there are other significant public safety issues in this case. One witness testified that an apparent suicide victim fell into the path of his motor vehicle, endangering his life as well as the lives of other passing motorists. (T. 175). Another witness testified that her daughter's death from the Ellington Bridge was not a suicide but rather a homicide. (T. 270). Additionally, testimony was introduced to show that debris thrown from the bridge could result in substantial harm to users of the Rock Creek Parkway below the bridge. (T. 135).

5. I find that testimony by the Applicant establishes that since the 1970's, DPW has implemented a policy of erecting safety barriers whenever a bridge with potential safety problems was reconstructed, rehabilitated or replaced. Wallace Cohen, Applicant's Director of Policy and Planning, testified that the barriers on the Ellington Bridge were consistent with that policy. Prior to construction of the barriers, several individuals wrote to the Director of DPW to urge the erection of barriers on the bridge. (Exhibit No. 11). Cohen stated that even without pressure from private citizens, the barriers would have been built on the bridge at some time as part of the District's long-term plan for placing safety barriers on all bridges. The reason for the general policy was to deter people from jumping, accidentally

falling, or being thrown from the bridge, or from throwing objects over the bridge onto and into the paths of vehicles and pedestrians below the bridge. (T. 134-135, 162, 344). Mr. Cohen testified that twenty thousand vehicles use the roadway under the bridge daily, and there is also considerable public activity on both the bike path and parkland beneath the bridge. (T. 141). Exceptions to this general policy are low bridges, bridges that are not over roadways, or bridges with little or no pedestrian traffic on the bridge. There are currently over 40 bridges in the city with safety barriers.

The ANC Opposition offered testimony to show that suicide prevention was the only consideration for the erection of the barriers. The Opposition contends that the barriers were constructed primarily at the urging of Mr. Benjamin Read, whose daughter leaped to her death from the bridge in a suicide, as opposed to being part of a consistent policy on public safety with regard to bridges. The ANC Opposition noted that eight foot safety barriers (as erected on the Ellington Bridge) were not erected on either the Klingle Road Bridge nor the Key Bridge. Mr. Cohen testified that each bridge has to be dealt with on an individual basis. (T. 352). Five-foot railings were erected on the historic Key Bridge after consultation with HPRB. Mr. Cohen testified before HPRB that those railings represented an effective compromise between aesthetic and safety concerns. (Exhibit No. 3).

6. In 1984, the Advisory Council on Historic Preservation ("Advisory Council"), the State Historic Preservation Officer ("SHPO"), the FHWA and DPW executed a Memorandum of Agreement in which it was agreed that there was no alternative to the safety barriers in protecting the public, notwithstanding the effect of the barriers on the architectural and historical character of the bridge. (Exhibit No. 2).

7. The CFA made recommendations on the barrier design in a letter, dated April 23, 1984 suggesting that in order to minimize the impact of the barriers on the architectural and historical character of the bridge: 1) the proposed ornamental features at the top of the pickets be removed; 2) the thickness of the pickets be minimized; 3) the spacing between the pickets be maximized; and 4) the fence be painted a neutral gray. I find that the Applicant incorporated all of these suggestions into the design of the barriers and in addition, lowered the proposed height of the barriers. (T. 348). The CFA concluded that the design of the proposed barriers "at least shows an approach sympathetic to the original bridge design". (T. 351; letter of CFA, dated April 23, 1984, Applicants Post-hearing Exhibit). There was evidence presented by the ANC Opposition which suggested that neither the Advisory Council nor the CFA were aware of revisions to the original plans submitted and upon which the Memorandum of Agreement was based. I find that the evidence suggests that the changes made by the Applicant merely incorporated recommendations of the CFA and sought to achieve greater compatibility of the proposed structure with the existing architecture. (T. 348).

8. I find that sufficient evidence was presented by the Applicant to illustrate that prior to barrier construction and during the preliminary design phase, DPW considered a number of alternative safety measures including other types of fencing systems, for example: 1) standard chain link fencing; 2) plexiglass panels; 3) a specially designed fine wire system; and 4) nets. (T. 346-348). Furthermore, evidence submitted by the ANC Opposition clearly showed that DPW also considered non-structural alternatives like increased police patrols on the bridge. (Burch deposition in Dole, 29-30).

I find that the alternatives were rejected for various reasons. The standard chain link fence was considered incompatible with the bridge architecture; plexiglass panels were potential maintenance problems; the fine wire system would require an elaborate support system incompatible with the bridge architecture and would also be a potential maintenance problem; nets would require a massive support system which would have to be appended to the outside of the bridge and would cause permanent damage to the bridge architecture. The nets would also accumulate debris and become maintenance problems. (T. 346-348).

The evidence suggests that the Applicant also rejected increased police patrols on the bridge as an effective suicide deterrent. The ANC Opposition referenced a letter dated August 9, 1984, from Wallace Cohen to Mr. Bowman of the Advisory Council in which Mr. Cohen indicated that regular police patrols were not considered successful in discouraging suicides on the Ellington Bridge. (T. 153). Testimony presented by the ANC Opposition seems consistent with this position. Judith Ittig for the ANC Opposition testified that she understood the neighborhood surrounding the bridge to be very well-policed with a lot of police officers crossing the bridge constantly because the headquarters for the two districts is not far away. (T. 567). The Opposition presented no evidence to refute Applicant's testimony on the feasibility of alternative methods examined.

9. Prior to the construction of the barriers DPW, in considering alternatives to the barriers, never consulted with any mental health experts. (T. 357-359). Subsequent to construction, the Applicant requested the Department of Human Services ("DHS") the primary mental health agency for the District, to study the problem of suicide prevention. A report entitled "The Suicide Prevention Project", dated February 4, 1987 was prepared by DHS ("DHS Report") and it concluded that safety barriers were effective in reducing leaping suicides at dangerous sites. The DHS Report summarized suicide statistics for the District and discussed the effectiveness of various types of suicide prevention methods.

The report indicates that from 1979 until the date of the report, the Ellington Bridge and the Taft Bridge accounted for 40 of the 56 bridge suicides reported by the D.C. Medical Examiner's Office. (Exhibit No. 7, DHS Report at 2). Since January 28, 1986, when the construction of the suicide prevention railings were completed, only one suicide has occurred from the bridge. During the sixteen months before the barriers were constructed there were nine suicides. During the sixteen months after the construction, there was one suicide. Between the end of that period and the close of the hearing in this case, there were no suicides. (T. 23, 311; DHS Report, D.C. Medical Examiner's statistics on bridge jumpers, Exhibit No. 7).

10. Dr. Robert Keisling, Director of the Emergency Psychiatric Response Division (EPRD) operated by DHS, testified for the Applicant that suicide statistics fluctuate from year to year and statistics must be studied over a sufficient period of time to draw accurate inferences to support the conclusion that barriers are effective for reducing suicides at the bridge. (T. 59, 60).

11. Protective barriers have significantly reduced the incidence of suicide at other popular sites across the nation: the Arroyo Seco Bridge, the Cape Cod Canal Bridge, the Empire State Building and the Seattle Space Needle. (T. 46-48, 323-326, DHS Report at 1). Mental health professionals testifying for the Applicant believe that the barriers have been effective in reducing suicides at the bridge site. (Exhibits 11, 12, 29). The Applicant introduced evidence that most suicides are the result of immediate, impulsive behavior often influenced by alcohol and drugs, and that most persons contemplating suicide are ambivalent about committing suicide up until the time of the act. (T. 25-27, 31, 65-69, 83-87, 233). Physical barriers, it is argued, would be effective therefore in deterring such individuals from committing the impulsive act of jumping off the bridge. Moreover, Dr. McKnew testifying for the ANC Opposition stated on cross-examination that a high enough barrier would stop suicides at the Ellington Bridge. (T. 391).

Witnesses for the ANC Opposition testified that site-specific barriers merely redirect those attempting suicides to other bridges or other methods of committing suicide. (T. 379-380, 537). The Opposition points to statistics which show that since the completion of the barriers in January 1986, there has been a citywide increase of total suicides, an increase in bridge suicides and an increase in the number of bridge sites from which suicides have occurred. (Exhibit No. 7).

However, I find that the record does not support any nexus between the erection of the safety barriers and the increase of suicide citywide, the increase in bridge suicides, or the increase in the number of bridge sites used. Nor does the record support the theory that suicide attempters are merely redirected to other sites. (T. 48-49, 75, 79, 402-403, 535-536).

Dr. Donald McKnew advanced the theory for the ANC Opposition that a distinction can be drawn between those who attempt suicide (attempters) and those who complete suicide (completers). (T. 374-378). He testified that the suicide statistics generally represent completers who elude the mental health system. Completers engage in premeditated acts of suicide and are not deterred by a physical barrier. Attempters in contrast, are ambivalent, do not really want to die, but occasionally make mistakes and kill themselves. (T. 375). I find the evidence persuasive that safety barriers can be effective in reducing the incidence of suicide at specific sites.

12. The DHS Report examined the "dedicated lines" telephone system installed on the Mid-Hudson bridge in Poughkeepsie, New York. Suicides at the bridge averaged five per year before 1983. Physical barriers were not constructed because architectural and structural factors made it prohibitively expensive. The phones were connected to a 24-hour community mental health center emergency unit. A recent evaluation of the effectiveness of the bridge phones conducted by the Dutchess County Department of Mental Hygiene found that while the incidence of suicide remained the same, the system did identify a number of individuals in need of psychiatric treatment. Dr. Kenneth M. Glatt, Commissioner for the Dutchess County Department of Mental Hygiene wrote, that the most effective prevention efforts are those which prevent access to sites where suicides are possible. He stated:

> Where such measures are not possible because of cost or architectural constraints, our experience indicates that the bridge phones are a viable alternative and are used by the would-be suicide who is often impulsive and usually ambivalent about dying up to the point of suicide. (Exhibit No. 7).

13. Alternatives to the safety barriers offered by the ANC Opposition included:

    1. a 24-hour daily hotline with suicide hotline phones on this and other bridges;
    2. increased emphasis on human intervention and person-to-person suicide prevention programs, for example: high school programs to deal with the growing rate of suicide among adolescents. (ANC 3C Resolution, Exhibit No. 60);
    3. a counselor trained in suicide prevention and stationed on the bridge full-time. (T. 221);
    4. installation of nets beside and below the bridges. (T. 488);
    5. posting of training (sic) police officers on the two bridges. (T. 488); and
    6. asking interested vendors to relocate to these two bridges, providing tax incentives for them and encouraging people to patronize them. (T. 488).

The ANC Opposition offered no testimony on the technical feasibility or projected costs for any of their alternatives. The Opposition presented no less architecturally offensive barrier designs as alternatives.

14. Dr. Kiesling testified for the Applicant that the telephone counselors that operate the 24-hour telephone hotline operated by EPRD earn approximately $25,000 per year. He testified that it would not be

cost-effective to place a counselor on the bridge full-time because you would be paying people to do nothing 95 percent of the time. (T. 56).

CONCLUSIONS OF LAW

Pursuant to Section 6(f) of the Historic Landmark and Historic District Protection Act of 1978 ("the Act"), no permit may be issued unless the Mayor finds that issuance of the permit is necessary in the public interest or that a failure to issue a permit will result in unreasonable economic hardship. Section 3(j) of the Act defines "necessary in the public interest" to mean "consistent with the purpose" of this Act as set forth in section 2(b) or "necessary to allow the construction of a project of special merit". "A project of special merit" means "a plan ... having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services".

The Applicant has requested a permit to retain the barriers on the Ellington Bridge based on their contention that the barriers are a project of special merit with significant benefits to the District of Columbia and to the community by virtue of "social or other benefits having a high priority for community services". The Mayor's Agent is required to balance the competing interests of preserving the architectural integrity of an historic landmark against whatever "social or other benefits" of the safety barriers, if any, are substantiated by the evidence on record. Citizens Committee To Save Historic Rhodes Tavern v. Department of Housing and Community Development, 432 A.2d 710 (1981). Based on the testimony of Dr. Grossman and the recommendation of the HPRB, I find that the barriers are a significant compromise of the architectural and historical integrity of the bridge. The metal barriers blur the distinction Cret sought to create in contrasting bridge designs and diminish the sense of open space which was an integral element of that design.

Having established a significant intrusion upon the architectural integrity of the bridge, the Mayor's Agent is required to find substantial social benefits from the barriers to justify their retention. I conclude that deterrence of suicides and improving public safety on and under the Ellington Bridge, if demonstrated, would constitute a project of special merit. This is consistent with the Court's ruling in Butler, supra, that if the barriers are effective as suicide deterrents, a much stronger showing of infringement to the bridge's historic architectural qualities would be required to justify removing them than the record presented before that Court provided. Butler, supra, at 14.

The evidence is persuasive that the Applicant pursued a consistent policy of erecting safety barriers on bridges scheduled for rehabilitation and having a history of or a potential for public safety problems. There are currently over 40 bridges in the city with safety barriers. The Ellington Bridge was a bridge with a notorious public safety problem, primarily due to its popularity, as a suicide site. I find that the accessibility and attractiveness of this bridge as a suicide site were the reasons the Applicant expedited its consideration of the bridge for barriers. There were also other safety hazards which were considered by the Applicant, including:
1) the height of the bridge (135 feet) coupled with the relatively low safety railings prior to construction of the barriers (3'8"); and 2) the potential for injury to those below the bridge as a result of objects thrown or persons thrown or leaping off the bridge, which is a significant hazard in light of the heavy pedestrian and vehicular traffic on the Rock Creek Park roadway.

The Butler Court suggests that the experience during the period since the erection of the barriers can be used in assessing their effectiveness. (Butler, supra, at 14). The evidence shows that in the sixteen months before the barriers were erected in January 1986, there were nine suicides at the bridge, and in the nineteen months after the erection of the barriers, there has been only one suicide. Many different inferences from these statistics were drawn by witnesses. The evidence presented persuades me that jumping off a bridge to commit suicide is likely to be an ambivalent, impulsive act which could be deterred by a physical barrier. Deterring, delaying or interrupting the suicidal person from completing the act of suicide offers a chance to prevent that suicide. It also allows a greater period of time for personal intervention by mental health professionals.

The creation of the safety barriers must be viewed as only one component of the District suicide prevention program. The test of the effectiveness of the barriers is not whether the barriers reduce the incidence of suicide citywide. Clearly, there are too many other variables that contribute to the overall increase in the suicide rate. The real test of the effectiveness of the barriers is whether the barriers reduce the incidence of suicide at the bridge. Just as a citywide increase in automobile deaths does not justify the removal of a stop sign at a dangerous intersection, so an increase in suicide citywide does not justify removal of the safety barriers at the Ellington Bridge. That is not the appropriate test of the effectiveness of the barriers. I find that the reduction of the suicide rate from nine to one over a comparable period of time is evidence that the barriers have been effective as a deterrent to suicide at the Ellington Bridge. The statistics indicate a positive trend which should be viewed in light of the experiences of other jurisdictions, which have found barriers to be an effective suicide deterrent at popular suicide sites.

To establish that the retention of the barriers is necessary in the public interest, the Applicant also must demonstrate that there are no reasonable alternatives to the barriers. In Don't Tear It Down, Inc. v. Department of Housing and Community Development, 428 A.2d 369 (1981), the Court imposed a reasonableness limitation on the consideration of alternatives to the demolition of an historic landmark:

> Reasonableness must be imputed into the "necessary" standard, and at the hearing on each "special merit" permit, factors including but not limited to cost, delay, and technical feasibility become proper considerations for determining "necessary." * * * Each of these factors has bearing on whether there are viable alternatives to demolition available, and the answer to this question determines necessity. Id., at 380.

Moreover, the applicant is not charged with considering every option, but rather all reasonable alternatives. Id., at 379. I find that the Applicant has considered all reasonable alternatives to the barriers and rejected them as either technically infeasible, ineffective, prohibitive in cost, or aesthetically more damaging to the architecture of the bridge.

Based on the evidence of record, the Mayor's Agent finds that erection of the barriers is a project of special merit that must be balanced against the damage done to the architectural integrity of the bridge. I find that the Applicant, in designing the safety barriers, revised its design to minimize the impact on the historical and aesthetic value of the bridge. Furthermore, the Opposition failed to present an alternative barrier design less architecturally offensive. The present design represents a compromise between the legitimate public safety concerns of the Applicant and the architectural integrity of the bridge. I conclude that:

1) the barriers have significant benefits because they deter or reduce suicides and otherwise improve public safety on and under the Ellington Bridge;

2) the special merit of the barriers outweighs any infringement upon the architectural integrity of the Ellington Bridge; and

3) there are no reasonable alternatives to the safety barriers.

Therefore, the Mayor's Agent finds that issuance of the permit to retain the barriers is necessary in the public interest and that the permit should be issued as requested.

ORDER

Issue permit to retain the safety barriers. Application HPA No. 87-377 is necessary in the public interest.

August 20, 1987
Date

Diane L Herndon
Diane L. Herndon, Esquire
Mayor's Agent for D.C. Law 2-144

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 87-1052

KALORAMA CITIZENS ASSOCIATION, ET AL., Petitioners,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF
CONSUMER & REGULATORY AFFAIRS, Respondent.

Petition for Review of Decision of the
District of Columbia Department of
Consumer & Regulatory Affairs

(Argued February 7, 1989 Decided January 18, 1990)

Before ROGERS, *Chief Judge*, and FERREN and BELSON, *Associate Judges*.

MEMORANDUM OPINION AND JUDGMENT

Petitioners challenge an order by the Mayor's agent (the "agent") under the Historic Landmark and Historic District Protection Act (the "Act"), D.C. Code §§ 5-1001-1015 (1988 Repl.), permitting the retention of fencing erected on the sides of the Duke Ellington Memorial Bridge (the "bridge") to prevent suicides and otherwise enhance the safety of the bridge and the area beneath it. We affirm.

The bridge is a designated historic landmark. Originally the barriers were put up by the Department of Public Works ("DPW") without following the procedures outlined in the Act. Various citizen associations and individuals opposed the barriers on the grounds that they were not compatible with the architectural integrity and aesthetics of the bridge. In *Butler v. District of Columbia Department of Public Works*, 115 Daily Wash. L. Rptr. 949 (1987), Judge Wertheim ruled that the barriers could be justified only under the "special merit" provision of § 5-1005 (e), and he therefore concluded that not only was review by the Historic Preservation Review Board (the "Board") required, but public hearings were necessary pursuant to § 5-1005 (e). Judge Wertheim ordered the District to follow the procedures outlined in D.C. Code § 5-1005 and to remove the barriers unless upon completion of the required proceedings their retention was found to be necessary in the public interest. Judge Wertheim permitted the barriers to remain pending completion of the appropriate procedures.

Pursuant to § 5-1005 (a), DPW applied for a permit to retain the barriers. The Mayor, pursuant to § 5-1005 (b), referred DPW's permit application to the Board, which recommended rejection of the DPW application. The Mayor, through his agent, held public hearings to determine whether the barriers qualified as a project of "special merit" under § 5-1005 (e). After hearing testimony from numerous witnesses both for and against retention of the barriers, the agent entered her Opinion and Order concluding that the barriers were a project of special merit. Upon balancing the special merit of the project against the damage to the architectural integrity of the bridge, the agent concluded that the barriers are "necessary in the public interest" and should be allowed to remain. This petition for review followed.

In order to issue a permit to alter the exterior of a historic landmark, the agent must find "that issuance of the permit is necessary in the public interest." *Citizens Committee v. District of Columbia*, 433 A.2d 710, 715 (D.C. 1981); D.C. Code § 5-1005 (a) & (f). "The phrase 'necessary in the public interest' means 'consistent with the purposes of this chapter as set forth in [§ 5-1001 (b)] or necessary to allow the construction of a project of special merit.'" *Citizens Committee, supra*, at 715. "A project of 'special merit' is one 'having significant benefits to the District of Columbia or to the community by virtue of ... social or other benefits having a high priority for community services.'" Id. Overall the issue is one of balancing the historical and preservation values and the extent to which they will be impaired by the project against the benefits or "special merit" to be derived from the project. Id. at 716.

The scope of our review is limited. We do not undertake a balancing exercise *de novo*, but merely review the record to insure that the proper factors were taken into account and weighed, to insure that the findings of the agent as a whole lead rationally to the conclusions reached, and that the findings are supported by evidence sufficient to convince reasonable minds of its adequacy. *Don't Tear it Down, Inc. v. District of Columbia Department of Housing and Community Development*, 428 A.2d 369, 378 (D.C. 1981).

The agent's extensive eleven-page opinion and order reveals that she heard extensive testimony, carefully considered the relevant factors including the benefits of the barriers, their cost, their impact on historic preservation values, and the costs (including diminution in historic value) and benefits of alternatives. *See* Opinion and Order of Mayor's Agent (August 20, 1987). The agent explicitly recognized the balancing approach that is required. *Id.* at 9. Her findings demonstrate that she considered the historical value and architectural aesthetics of the bridge and recognized that they are significantly compromised by the barriers. *Id.*

The agent also found, however, that the evidence was persuasive that safety barriers can be effective in reducing the incidence of suicide at specific sites, *id.* at 7, and that the reduction in the suicide rate at the Ellington Bridge after the installation of the barriers was evidence that they have been effective as a deterrent to suicide there. *Id.* at 6. She also considered the evidence dealing with the sometimes impulsive nature of the suicidal act, and concluded that physical barriers could be a deterrent to such suicides. *Id.* at 7. Finally, the agent weighed the evidence concerning reasonable alternatives to the barriers. *Id.* at 5-6.

Having considered the relevant evidence, the agent found that the project was one of special merit that had to be balanced against the acknowledged damage the barriers caused to the bridge's architectural integrity. *Id.* at 10. The conclusion of the Mayor's agent that the special merits of the barriers outweighed any infringement upon the bridge's architectural integrity as well as her ancillary findings and conclusions are fully supported by the record and adequately explained. Accordingly, it is

ORDERED and ADJUDGED that the order on appeal be, and it hereby is, affirmed.

FOR THE COURT:

Richard B. Hoffman

Richard B. Hoffman
Clerk of the Court

STATEMENT BY DOCTORS COMMITTEE -- April 1990

Until public safety fences were built, the Duke Ellington Memorial Bridge was Washington's most notorious suicide site. The fences have greatly reduced suicides there. We strongly oppose their removal.

Such sites attract despondent persons for many reasons, e.g. their known association with suicide; their ease of access; their natural or symbolic beauty; and the virtual certainty of lethality of falls.

The despair that inclines persons to suicide by jumping from high places may reflect anything from serious clinical depression to transitory or impulsive despondency. Most individuals, however, no matter how long or brief their suicidal inclination, approach the act itself with feelings of ambiguity. The desire to be done with the problems that have led to such considerations conflicts with the instinct to survive.

At such moments, rescue efforts by others often trigger the decision to jump when there is nothing to prevent it. Depression is often marked by low levels of energy. Having to scale fences at such times, even when physically feasible, can weaken resolve. Fences often makes rescue feasible and provide something to cling to until the last moment. They are also an important symbolic reminder of community concern for the troubled.

High bridges represent a special hazard to young persons. Suicide by jumping requires no advance planning or equipment. Without long experience with setbacks that often prove short-lived, the young are more likely than others to take fatal action on impulse, particularly when caution is dulled by drink or drugs. The Ellington Bridge used to be a fatal magnet for depressed young people.

The National Research Council and Institute of Medicine in their major study, Injury in America (1985), observed that reducing the availability and accessibility of popular means of suicide can reduce suicide. This view was the basis for recommendations in the Task Force on Youth Suicide report (1986) of the U.S. Department of Health and Human Services, which recommended actions "to limit access to youths at high risk for suicide to the lethal means of suicide" and "to limit access to bridges and high buildings from which young people are likely to jump to their death."

There is no evidence that individuals deterred from suicide at one site will proceed to do so elsewhere. From persons who have jumped but survived we know that some have only one specific site in mind. At least, if deterred by fences they will be forced to take time to review their options. This may take them past the point of maximum danger or enable them to seek needed assistance. Three psychiatrists on the Doctors Committee have been consulted by persons who went to the Ellington Bridge with suicidal intent and were deterred by the fences.

Fences at other major suicide sites, such as the Cape Cod Canal, Pasadena, and Sydney Harbor bridges, have sharply reduced or, if high enough, prevented suicides there. Bridge hotlines to crisis centers can help some people to obtain assistance, but they are not an adequate substitute for physical barriers. Hotlines on the unfenced Poughkeepsie Bridge have not significantly reduced suicides there.

The psychiatrists and other doctors listed below are members of the Doctors Committee of the Committee for Public Safety at the Duke Ellington Memorial Bridge who subscribe to the foregoing statement urging retention of the safety fences at the Ellington Bridge.

Dr. Jeffrey S. Akman, M.D. Department of Psychiatry and Behavioral
  Sciences, G.W.U. Hospital Medical Center
Dr. Bernard S. Arons, M.D., National Institute of Mental Health

Dr. Alan L. Berman, Washington Psychological Center: former president, American Association of Suicidology
Dr. Johanna Ferman, Executive Medical Director of the D.C. Institute of Mental Hygiene
Dr. Ricardo Galbis, Psychiatrist, Director, Andromeda Mental Health Center
Dr. Howard A. Hoffman, President/Medical Director, The Psychiatric Institute of Washington
Dr. Edward C. Kirby, M.D.
Dr. Edgardo J. Menvielle, Psychiatrist, Children's Hospital
Dr. Seymour Perlin, Psychiatrist, G.W.U. Hospital Medical Center: former president, American Association of Suicidology
Dr. R. Michael Sanders, Psychiatrist
Dr. Irving Schneider, M.D.
Dr. Jerry M. Wiener, Chairman, Dept. off Psychiatry and Behavioral Sciences, G.W.U. Hospital Medical Center: former president, American Academy of Child and Adolescent Psychiatry

Note: Other doctors are also on record as favoring retention of the Ellington Bridge safety fences.

LETTERS FROM MYLES GLASGOW

July 3, 1990

Honorable Julian Dixon
Honorable Gallo
House Appropriations Committee
H-218
United States Capitol
Wash., D.C. 20016

Re: Safety Barriers at the Duke Ellington Memorial Bridge

Dear Congressmen Dixon and Gallo,

This follows your June 28, 1990 questions during our testimony in favor of the safety barriers at the Duke Ellington Memorial Bridge.

The Mayor decision to take down the 1986 barriers:

1. Lacks the support of a judicial hearing, written record or appealable written decision.

2. Is arbitrary and capricious in light of the judicial factual and legal findings of his own agent's 11 page opinion of 1987, (by Diane Herndon, Esq.,) that the barriers qualified as project of "special merit", outweighed any damage to the bridge's architectural integrity, and "that issuance of the permit is necessary in the public interest."

3. Is unreasonable on its face. The Mayor and some members of the city council have claimed that adding six inches to the 3'8" railing at the city's number one suicide bridge, the Duke Ellington Bridge, somehow offers a "reasonable alternative" to the existing fences that reach further than 8' above the sidewalk. Common sense as well as Department of Public Works managers argue that removal of the barriers will allow suicides to once agains claim this bridge as the no. 1 suicide bridge.

4. Misled the public who relied on the Mayor's legal defense of the 1987 opinion through the January 18, 1990 D.C. Court of Appeals decision who were not given notice that the Mayor was

simultaneously trying to abandon the binding effects of that opinion by submitting a building permit to remove the fences without addressing any of the findings made to support the 1987 conclusion that the fences were necessary in the public interest."

Supporters of the fences specifically and the community at large are entitled to a judicial type hearing, involving the same due process earmarks of the 1987 hearings held by Diane Herndon, Esq. to determine whether any of the findings of facts and conclusions of law affirmed by the D.C. Court of Appeals are no longer "fully supported by the record" and whether the significance of any new findings are "adequately explained".

This arbitrary and capricious decision by Mayor Barry is without the benefit of any judicial hearing, record of testimony, appealable written decision, findings of facts or conclusions of law. The Mayor has ignored the judicial hearing and record created by his own agent, Diane Herndon, Esq.. decided in an 11 page opinion in August of 1987 and affirmed by the D.C. Court of Appeals January 18, 1990. That 1987 judicial determination by the Mayor's agent was made pursuant to D.C.Code 5-1005 (b) which required a full due process hearing on whether the barriers were "necessary in the public interest" inspite of any damage they caused to the "architectural integrity" of the bridge. The Mayor and his Corporation Counsel and his Department of Consumer and Regulatory Affairs successfuly defended his agent's opinion when the Kalorama Citizens Association appealed it to the D. C. Court of Appeals, which affirmed the findings and opinions as "fully supported by the record and adequately explained."

The Mayor's agent's hearing was a judicial type hearing with attorneys questioning and cross examining witnesses and the issues being resolved by the Mayor's agent who whas exercising the Mayor's authority. The hearing was not an appeal of the Historic Preservation Review Board denial of the permit application to retain the fences, but was a trial de novo, where testimony was taken on an issue beyond the authority of the Historic Preservation Review Board, i.e. whether the plan to erect the barriers was a project of "speical merit" and if so did the weight of the special merit of the project outweigh any damage to the historic bridge's architectural integrity.

The Community meetings held by the Mayor in 1989 were without any written record, written or appealable decision and allowed a small group of insiders well connected in an election year to direct the Mayor's abandonment of his earlier bold move to install the fences.

All of which adds up to an apparent abuse of due process which should be condemned and nipped in the bud.

Very truly yours,

Myles Glasgow

Myles Glasgow.

House Appropriations Committee
For the District of Columbia
United States Capitol
Room H218
Wash., D.C. 20016

Re: Due Process Inadequacies in the Mayor's Decision to Remove the Safety Barriers at the Duke Ellington Bridge.

Dear Committee Members,

Mayor Barry retained the safety barriers at the Duke Ellington Memorial Bridge pursuant to a full blown adjudication in July of 1987 where a written record of over 600 pages plus exhibits demonstrates that attorneys were allowed to cross examine witnesses and argue to the Mayor's special agent, Ms. Diane Herndon, Esq. That hearing was necessary because the Historic Preservation Review Board and the Commission of Fine Arts had denied the city's building permit application for the safety barriers because the barriers negatively impacted on the historic and artistic aspects of the bridge.

Based on the full record of that administrative trial, the Mayor's agent wrote an eleven page appealable opinion which held that the safety barriers were of special merit which outweighed any infringement on the architectural integrity of the bridge and were necessary in the public interest since they deterred suicides at the city's number one suicide bridge and there were no reasonable alternatives. The Mayor's agent's opinion included fourteen specific findings of fact, the eighth and thirteenth specifically reciting the structural and non structural alternatives which had been looked at by the city and the community, none of which alternatives were reasonable.

The factual and legal findings of the Mayor's agent's detailed August 1987 opinion was appealed by the Kalorama Citizens Association and others and fully argued on all issues before the D.C. Court of Appeals.

On January 18, 1990 the D. C. Court of Appeals held that the Mayor's agent's "findings and conclusions are fully supported by the record and adequately explained".

The are no transcripts, recordings or official record of any meetings concerning the safety barriers, according to the Mayor's Ward One Coordinator, Ms. Regina Thomas, except the 1987 hearings and opinion of the Mayor's agent referred to above. (See page two of my April 30, 1990 letter to her following our April 27, 1990 meeting. She never denied my understanding as stated.)

I have reviewed the available ANC records from ANC 1-C and I have spoken with the spokespersons for the opponents to the safety barriers whose own minutes of their meetings show that they have misled the public by totally ignoring, forgetting, denying and misrepresenting the Mayor's agent's resolution of the many issues which the D. C. Court of Appeals found to be fully supported by the record.

Before the Mayor acts contrary to his own agent's adjudicated findings which the D.C. Court of Appeals has so definitely affirmed, the Mayor should at least direct a neutral hearing examiner to create a written record where testimony under cross examination can be heard according to the D.C. Administrative Procedure Act, and a written opinion rendered which can be appealed pursuant to that Act to the D. C. Court of Appeals.

The statutorily biased Historic Preservation Review Board and the Commission on Fine Arts are not empowered nor competent to consider the special merits of the safety barriers, the public safety needs to deter suicides and the reasonableness of any alternatives to the barriers.

The Mayor has pitted portions of the community against one another needlessly by abandoning the due process procedure of the Mayor's Agent's 1987 hearing and the appellate affirmation of the Mayor's Agent's Opinion and Order to "Retain the Safety Barriers".

Instead, the Mayor and the ANCs and the Citizens Association have used the politically charged atmosphere to hold recordless community meetings, closed door sessions and vote sensitive appeasements to undo that which due process established.

Very Truly Yours
Myles Glasgow
Myles Glasgow

April 30, 1990

Ms. Regina Thomas
District of Columbia Office of General Assistnce,
Ward One Coordinator
Frank Reeves Building, 6th Floor
14th and U St., N.W.
Wash., D.C. 20009

Re: Safety barriers at the Taft and Duke Ellington Memorial Bridges.

Dear Ms. Thomas,

This follows our meeting last Friday, April 27, 1990. You agreed to provide me with your best information concerning the data you have concerning the location of and the number of suicides, murders, accidental deaths and similar events at the Duke Ellington and Taft memorial bridges for at least the periods from 1979 through 1989 as well as all of the meetings which you have records of concerning the efforts to keep and remove these fences. Attached are four charts of such information which come from information provided by the Mayor in 1989 and by the medical examiner's office in 1987 and 1989.

It appeared to me that neither you nor the Mayor have given much consideration to the legal significance of the opinion and findings rendered in 1987 by the Mayor's special agent, Ms. Diane Herndon, Esq. whose August 1987 opinion was upheld and affirmed by the D.C. Court of Appeals January 18, 1990. In my opinion it will be an act of gross negligence for the Mayor to remove the fences at the Ellington bridge in favor of the proposed four foot two inch railings.

You indicated that you and the Mayor and his advisors, but not necessarily corporation counsel, had considered the possibility of law suits arising from estates of persons whose deaths are facilitated by the removal of the existing fences. You indicated that no one in the government was much concerned with the liability problem.

You clearly said that it would not make any difference to you if you actually heard several people tell you that they are alive today because of the fences. You said the community is divided fifty fifty on the issue of keeping the fences, with the Kalorama Citizens Association the better organized of the two sides. You felt the fences should come down because it is possible to scale them. You explained how the Mayor, yourself, Dee Hunter (a staff persons) and others had been able to reach to the top of the fence by stepping on to the stone base under the fence. You explained how you believe the proposed design will not allow for any such foothold. Finally you stated that in your opinion a four foot two inch railing will be an adequate barrier to deter suicides, murders, and accidental falls.

You indicated that there is no transcript, recording or official record of any meetings concerning the safety barriers, other than the 1987 transcript of the two days of hearings held by Ms. Diane Herndon which I referenced. I presume that you have neither read those transcripts nor the various exhibits submitted, including the February 1987 report from the D.C. Mental Health Services Administration.

I strongly urge you to alert the Mayor to the very real risks of needless deaths he is creating by removal of the existing fences. The Taft and Duke Ellington Memorial bridges without adequate safety barriers are an attractive nuisance of which the city has abundant notice, which present an unreasonable danger of suicide, murder and accidental deaths all of which can be deterred by a safety device such as the existing fences installed in 1986 and found to be necessary and without reasonable alternatives in 1987 and affirmed by the D.C. Court of Appeals in January of 1990.

Since the city is responsible for designing and rehabilitating the bridge, the law obligates the Mayor and those acting under him to exercise reasonable care in its design. The Taft and the Duke Ellington Memorial bridge have track records showing from 1979 through 1985 a high degree of likelihood that each bridge will be used for suicides. Testimony heard by Ms. Herndon also showed a likelihood that the bridges would be used for murder and extortion. In that time period alone, 54% of all bridge suicides occurred at the Duke Ellington Memorial bridge and 27% occurred at the Taft. Courts look at the likelihood of the harm, the gravity of the harm it it occurs and the burden of taking the precaution which would be effective to avoid the harm. The gravity of suicide, murder or accidental death is as grave as it gets, while there is no burden on the city to keep the existing fences at the Ellington bridge.

The estate of one who dies from suicide, murder or accidental fall will show that the removal of the fences and the installation of a four foot two inch railing involved an inherent risk that the Duke Ellington memorial bridge would once again become the number one bridge in the city used for death. The estates will be able to show that the city had installed safety barrier fences which all but eliminated deaths from this bridge between January 28, 1986 and the present. The estate will be able to show that the city actually wasted and spent nearly $556,000.00 by removal of the fences, while retention of the fences would not have cost anything other than usual maintenance.

Since the city is on notice of the risk that this bridge will once again be the city's number one death bridge without the fences, the city has the duty imposed by the last clear chance doctrine in the law to avoid that risk even though the risk may result from a suicide. They city will not be able to avoid liability by simply saying that the suicide was reckless conduct. When a landowner, and a transportation service provider and a designer such as the city is in this case has such advance notice of the inherent risk attendant to removal of the fences, the law imposes a clear and heavy duty to avoid the risk.

D.C. taxpayers have the right to expect that their hard earned dollars will not be wasted by exposing the city to liability for needless deaths.

The Mayor should be guided by his legal staff to reconsider his decision to remove the fences at the Duke Ellington Memorial Bridge by answering a set of legally significant questions, such as:

1. Is it likely or is there testimony or reports that the existing fences have deterred some deaths at the Duke Ellington Memorial bridge. Answer, yes.

2. Have there been fewer deaths at the Duke Ellington Memorial bridge after the fences were installed than before they were installed. Answer, yes, a dramatic reduction.

3. Will it be easier for a non athletic, sluggish, depressed and frightened person to go over a four foot two inch railing than an eight foot fence? Answer, absolutely.

4. Is the city on notice that 54% of all bridge related suicides in D.C . from 1979 through 1985 occurred at the Duke Ellington Memorial bridge. Answer, yes.

5. How much will it cost the city to keep the existing safety fences compared to how much it will cost the city to remove the safety protection of the fences? Answer. It will cost about $556,000.00 to make the bridge once again the number one death bridge by removal of the fences. The discarded fences cost $229,000.00, the city will lose $179,000.00 in federal highway obligation funds, the cost of physical detachment is about $40,000.00, the new four foot two inch high railing and stone work will be about $140,000.00. Storage costs and thirty years of interest costs on the borrowed capital budget funds used in this project are not known. Future law suit litigation and judgment costs could be in the millions of dollars.

You indicated that you were not aware of any disagreements with the factual basis of Ms. Diane Herndon's opinion. I presume that you were aware that the city's corporation counsel had successfully defended that opinion against the appeal filed by the Kalorama Citizens Association. In the event that you have any disagreements with any of Ms. Herndon's factual findings, I understand that you will forward them to my attention.

I am particularly interested in your forwarding to me the various lists of persons whose names are recorded as attending the various meetings you referred to as having been held prior to the Mayor deciding to remove the same fences he had previously installed.

In the event that you should disagree with or not understand any of this letter, please so inform me in writing, otherwise I will understand that you are in agreement with the accuracy of my recollection although I am sure you and I are in disagreement as to the justification for removal of the fences as of last Friday. I can only hope that a closer review of the issue from the point of view I have set forth above will induce you and the Mayor to return to the Mayor's original insight and direction to protect against needless deaths by keeping the fences and thereby reducing the risks of such deaths.

Very truly yours,

Myles Glasgow

Myles Glasgow.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

JOSEPHINE BUTLER, et al., :
Plaintiffs, :
v. :
DISTRICT OF COLUMBIA DEPARTMENT OF PUBLIC WORKS, et al., :
Defendants. :

Civil Action No. 0084-86

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came before the Court on plaintiffs' Complaint for Preliminary and Permanent Injunction, seeking to restrain the defendants District of Columbia Department of Public Works (DPW) and Mayor Marion Barry, Jr. from continuing construction of "suicide barriers" on the Duke Ellington Bridge in Northwest Washington. Plaintiffs, residents and a Commissioner of the affected Advisory Neighborhood Commission areas, allege that in constructing such barriers the defendants have violated both the Advisory Neighborhood Commissions Act, D.C. Code § 1-261 (1981) (the ANC Act), and the Historic Landmark and Historic District Protection Act, D.C. Code § 5-1001 _et_ _seq_. (1981) (the Historic Protection Act), by not following the procedures required by those statutes. After considering the parties' briefs and oral arguments the Court denied defendants'

Motion to Dismiss the Complaint Or, In the Alternative, for Summary Judgment and granted plaintiffs' Cross Motion for Summary Judgment except insofar as it was necessary to hear evidence to resolve questions of defendants' administrative practice in applying the D.C. Building Code to bridges and on issues of irreparable harm and the public interest affecting the potential relief to be granted. An evidentiary hearing was then held on those questions and issues. Having announced its ruling orally at the conclusion of that hearing, the Court now enters these Findings of Fact and Conclusions of Law, and accompanying Order and Judgment.

Findings Of Fact

1. The Duke Ellington Bridge is an historic landmark, having been listed in the District of Columbia Inventory of Historic Sites since 1973.

2. During the period 1979 through 1985 there were a total of 24 suicides from the bridge, representing more than half of all suicides from the approximately 330 bridges in the District of Columbia and about four to five percent of all suicides in the District. No suicides had occurred at the bridge during the two months between completion of the barriers in question and this Court's evidentiary hearing; some evidence indicates one or possibly two unsuccessful attempts during those months.

3. After receiving a recommendation for suicide barriers in early 1983 from a private citizen whose daughter had committed suicide from the bridge, DPW devised plans to design and construct such barriers in collaboration with the Commission of Fine Arts. On June 15, 1984, DPW notified the Advisory Council on Historic Preservation of its intention to erect a picket-type metal fence on the bridge. In

response the Advisory Council expressed concern that the affected Advisory Neighborhood Commissions, ANCs 1-C and 3-C, be approached about the proposals.

4. On August 2, 1984, Gary Burch, Chief of DPW's Design and Engineering Division, made an oral presentation regarding the barrier project at a regular meeting of ANC 1-C. However, no advance notice was given that the subject would come up at the meeting and it was not on the scheduled agenda. As a result, local residents who may have wished to express views on the subject had no adequate opportunity to attend and be heard. No other notice of the proposed barriers was given by the defendants to ANC 1-C.

5. DPW's Burch made a similar oral presentation to the Planning and Zoning Committee of ANC 3-C on August 7, 1984, and that Committee reported orally on the matter at the next scheduled regular meeting of ANC 3-C. No other notice of the proposed barriers was given by the defendants to ANC 3-C.

6. On January 28, 1985, ANC 3-C passed a resolution opposing installation of the barriers, noting that it had been given "no opportunity for great weight comment." This resolution was forwarded to Mr. Burch of DPW, with a transmittal letter from ANC Commissioner Lisa Koteen, on February 14, 1985. At its regular meeting on May 6, 1985, ANC 1-C adopted a "motion in opposition to the construction of fencing along the Duke Ellington Bridge."

7. The proposed barrier project was never referred by defendants to the Historic Preservation Review Board (HPRB) for its recommendations.

8. On May 7, 1985, without notice to either ANC, DPW signed a contract with the Long Fence Company for construction of the barriers.

9. No building permit was applied for or obtained by defendants to construct the barriers, notwithstanding Section 107.1 of the D.C. Building Code which requires such a permit for "alteration...[or] repair...of all buildings and structures and their appurtenances, or parts thereof, unless exempted from requirements for permits in this Code." The Building Code contains no exemption for public bridges.

10. DPW and its predecessor agency, the Department of Transportation, have never applied for or obtained building permits when repairing or renovating city bridges. However, the construction of the barriers on the Ellington Bridge is the first instance of an alteration to an historic bridge since enactment of the Historic Protection Act in 1978. Prior to the instant project, none of the five bridges that had been designated historic landmarks at the time that Act was enacted had had any major alterations or repairs. Proposals for renovating Key Bridge, also listed in the Inventory of Historic Sites, have been pending for some time; those proposals were submitted to the HPRB for review at HPRB's request.

11. In omitting to apply for a building permit DPW acted in good faith conformity with past administrative practice respecting alterations to public bridges, since no court had then held that a permit was necessary for alterations of historic bridges, this was the first instance of proposed alteration to such an historic bridge subsequent to enactment of the Historic Protection Act, and defendants had not established an administrative procedure for referral of such alteration plans to the HPRB or ANCs.

12. On August 12, 1985, before construction had commenced, a petition bearing the signatures of more than 600 local residents opposed to the project was presented to Mayor Barry, DPW Director John Touchstone and each member of

the City Council. Nonetheless, construction of the barriers began on August 20, 1985. On August 17, 1985, various environmental protection and citizens' organizations filed suit in the United States District Court for the District of Columbia, seeking to enjoin further work on the bridge. National Trust for Historic Preservation v. Elizabeth Dole, et al., CA 85-2749. Despite the denial of a temporary restraining order and injunction in that case, defendants voluntarily suspended work on September 20, 1985. Work did not resume until December 26, 1985, when DPW and the Mayor made an unannounced decision to start the construction again. Plaintiffs in the instant case filed their lawsuit on January 3, 1986, some eight days after the resumption of work.

13. In late January of 1986, almost simultaneously with this Court's denial of plaintiffs' application for a Temporary Restraining Order, construction of the barriers was completed.

14. The undisputed evidence is that erection of the barriers has compromised to some degree the architectural integrity of the bridge and impaired the panoramic view from and character of the bridge.

15. There is before the Court no competent and credible evidence of economic harm to retail establishments in the area of the bridge, or nearby that area, as a result of the erection of the barriers.

16. Defendants have expended approximately $150,000 of public funds to construct the barriers. Although the barriers can be removed without adversely affecting the bridge structure, a substantial additional expense would be incurred in doing so. If the barriers were now removed and then, after full compliance hereafter with all procedural requirements of the ANC Act and Historic Protection Act the defendants were then lawfully to decide that construction of

the barriers is necessary in the public interest, the expense of constructing the barriers anew would presumably be at least as much as the original $150,000.

17. The parties are agreed that suicides should be prevented to the extent possible, but they are in disagreement as to whether the barriers constructed by DPW will be effective for that purpose. Plaintiffs have submitted an affidavit from a psychiatric expert expressing the opinion that such passive site-specific barriers are highly unlikely to reduce the overall incidence of suicide, and suggesting alternatives such as suicide hotline telephones on the bridge. But the record on this subject has not been developed sufficiently by either side for this Court to make any determination as to whether the barriers will in fact be an effective deterrent of suicide; they may or may not be, so far as the evidence in this record shows.

Conclusions Of Law

This Court has jurisdiction pursuant to D.C. Code § 11-921 (1981).

Plaintiffs invoke the ANC Act, D.C. Code § 1-126 (1981), and the Historic Protection Act, D.C. Code § 5-1005 (1981), as the bases of their claims. Defendants do not deny that if those statutes are indeed applicable to this case, they have not complied with the provisions thereof. Specifically, defendants did not give thirty days written notice to affected ANCs of their intention to erect "suicide barriers" on the Duke Ellington Bridge; they failed to provide the affected ANCs with sufficient notice about the project so that the ANCs could hold public meetings, as provided for in § 1-261(d), and issue written recommendations; they failed to accord "great weight" to the issues and concerns raised by the ANCs once the ANCs fully understood the details of the project; and they failed to issue a written rationale for their decision to erect the barriers in the face of clear community and ANC opposition to the idea, as required by § 1-261(d). Plaintiffs further assert violations of the Historic Protection Act in that the barrier proposal was never submitted to the HPRB; that no public hearing was held by the Mayor; and that no recommendations concerning the project were forwarded by the HPRB to the Mayor.

Defendants contend that these two statutes have no applicability to the facts in this case. Defendants argue that the construction of suicide barriers on this historic bridge by the DPW is not the kind of government action requiring thirty days' written notice to affected ANCs under § 1-261, nor the type of matter mandating referral to the HPRB and a public hearing by the Mayor under § 5-1005. Defendants also argue that if the statutes are applicable, the plaintiffs nevertheless are barred from obtaining relief due to laches arising from their delay in opposing the barrier project; that the visit of DPW official Burch to discuss the plan at a regular meeting of ANC 1-C and at a committee meeting of ANC 3-C constituted sufficient "actual notice" as to excuse technical non-compliance with § 1-261; and that presentation of the plan to certain federal agencies, such as the Advisory Council on Historic Preservation and the Federal Highway Administration, obviated the need to go before the local Historic Preservation Review Board. The Court will address these issues in turn.

The thirty-day notice, ANC recommendation, and great weight consideration requirements of the ANC Act do not apply to every decision of the District government affecting local neighborhoods. In order to be subject to those requirements, the governmental decision must involve (as relevant here) "requested or proposed...public improvements...or permits affecting said commission area," § 1-261(c)(1), and, in addition, the proposed public improvement or permit must be "of significance to neighborhood planning and development," § 1-251(d). This means, at a minimum, that every proposed governmental decision affecting neighborhood planning and development, as so defined, "for which a prior hearing is required by law is sufficiently significant to require written notice, pursuant to [§ 1-261(b)]..., to the affected ANC or ANCs." Kopff v. District of Columbia Alcoholic Beverage Control Board, 381 A.2d 1372, 1381 (D.C. 1978) (original emphasis).

Thus, if a prior hearing was required by law before the final decision was made by defendants to construct the so-called suicide barriers, then defendants were obliged first to comply with the ANC Act procedures set forth in subsections 1-261(c) and (d). Otherwise, those procedures were probably not required. See Kopff, id. ("...it is difficult to conceive of many matters, not requiring a hearing, which would be sufficiently significant" to warrant those procedures).

Whether a prior hearing was required in this case depends, in turn, upon the applicability of the Historic Protection Act. Under that Act, the Mayor may not "issue a permit to alter the exterior or site of an historic landmark" without first referring the permit application to the HPRB for its recommendation, §§ 5-1005(a),(b), and also for specified categories of such applications the Mayor "shall hold a public hearing on the permit application,"

§ 5-1005(e). After those procedures the Mayor may issue the permit, but only if he then "finds that such issuance is necessary in the public interest...," § 5-1005(f).

Defendants contend that the provisions of § 5-1005 are triggered only by an application for a permit, and that no such permit is required here. But defendants concede that on its face, Section 107.1 of the D.C. Building Code, which all parties agree has the force of law, plainly appears to require a permit for construction of these barriers, since the barriers undoubtedly constitute an "alteration" to "structures and their appurtenances, or parts thereof" and the Building Code contains no exemption for bridges. Although defendants have apparently never in practice applied that requirement to D.C. bridges in public space, the Historic Protection Act clearly envisioned the application of its protections to historic landmark bridges. The Act expressly defines an "historic landmark" to include any "building, structure, object or feature, and its site, or a site... [l]isted in the District of Columbia's inventory of historic sites...." § 5-1002(b). The Council in enacting that Act in 1978 was surely aware that five historic bridges including the Duke Ellington Bridge had already been listed in that inventory since 1973.

The basic legislative purpose of the Historic Protection Act was to provide a comprehensive system of protection for historic sites, but the entire Act would be rendered a nullity as to historic bridges if its protections could be evaded by DPW through the simple expedient of not applying for a building permit before altering those bridges. Defendants have pointed to nothing in the Historic Protection Act or its legislative history to suggest that the Council, after subjecting all inventoried D.C. historic sites to the Act's protection, contemplated carving out an exemption for the historic bridges that were so inventoried. Under these circumstances this Court cannot conclude that the Council silently intended the Act to be so readily emasculated merely by DPW's omission to apply for a permit. Rather, the Court concludes that the Council, by enactment of the Historic Protection Act, intended to discontinue any informal administrative exemption of historic bridges from the permit application process. As a result, DPW was required to apply for a building permit for the bridge alterations here at issue, and § 5-1005 required the Mayor to refer such application to HPRB for a recommendation and to act favorably on the application only upon finding that issuance of such a permit is necessary in the public interest.

The Mayor in such a case is required by § 5-1005(e) to hold a public hearing on the permit application only if a claim of unreasonable economic hardship or of "special merit" is made, if the applicant (here putatively DPW) so requests, or in any other case that the Mayor deems appropriate. Of these four categories, the only one that would be applicable to mandate a hearing in this case is that of "special merit," which the Act defines to include "a plan...having significant benefits to the District of Columbia or to the community by virtue of...social or other benefits having a high priority for community services." § 5-1002(11). That seems necessarily to be the appropriate basis for such a permit application in this case, as it was in substance DPW's basis for the barrier project from the outset. Accordingly, a public hearing was required by § 5-1005(e).

Because both building permit and hearing were required in this case, this Court must conclude that the erection of the barriers was a proposed governmental action of significance to the affected neighborhood and ANCs. As stated in Kopff, supra, 381 A.2d at 1381, under such circumstances the ANC procedures in § 1-261 of the D.C. Code are applicable. Defendants contend in the alternative, however, that plaintiffs are barred from obtaining relief by laches, that actual notice to the affected ANCs should excuse defendants' "technical" non-compliance with the ANC Act, and that presentation of the proposed barrier plan to various federal agencies obviated any need to comply with the Historic Protection Act.

Laches is a valid defense in equity when one party has engaged in undue and unexplained delay which works an injustice to the other party through injurious reliance. Schmittinger v. Schmittinger, 404 A.2d 967, 970 (D.C. 1979). Laches will not provide a valid defense, however, unless two tests are met: the defendant has been prejudiced by delay and that delay was unreasonable. American Univ. Park Citizens Ass'n v. Burka, 400 A.2d 737, 740 (D.C. 1979). The Court cannot find that defendants have carried their burden of meeting either test in this case.

DPW gave plaintiffs no adequate opportunity to make their objections known early in the planning stage for this project, by failing to provide advance notice that the subject would be addressed at the ANC 3-C meeting of August 2, 1984, so that interested persons could be forewarned to attend and express their views, and by failing to make any presentation at all on the subject to ANC 1-C (albeit an unscheduled oral presentation was made to a committee). Nevertheless, resolutions or motions in opposition to the project were adopted by both ANCs and communicated to DPW during the first half of 1985, yet defendants executed the construction contract without notice to the ANCs and then commenced work in August of 1985 after receiving protest petitions signed by over 600 local residents. By voluntarily suspending work in September 1985 the defendants lulled plaintiffs into inaction until defendants' unannounced decision to resume construction work on December 26, 1985. Plaintiffs filed this suit only eight days later on January 3, 1986. On these facts the Court concludes that plaintiffs engaged in no unreasonable delay and that, far from suffering any prejudice, the defendants by their successive unannounced actions presented plaintiffs with a fait accompli that denied plaintiffs their right to have ANC Act procedures followed before, not after, construction of the barriers.

Defendants claim that actual notice, through Mr. Burch's unscheduled presentations to ANC 3-C and a committee of ANC 1-C, excuses "technical" non-compliance with the ANC Act. That argument might have weight if defendants could show that plaintiffs suffered no prejudice from the deficient notice, but here the contrary is plainly the case. Interested area residents who might have wished to express views on the project to their ANCs were deprived of adequate opportunity to do so, the ANCs had no fair opportunity to address possible alternatives and make concrete recommendations to defendants, and the ANCs were deprived of their statutory right to have their recommendations accorded "great weight" by defendants, § 1-261(d).

Moreover, defendants have yet to provide the "written rationale" for their decision which the statute requires, id., including specific findings and conclusions with respect to each ANC issue and concern. See Kopff, supra, 381 A.2d at 1384. Nor has the HPRB yet had an opportunity to review the project and make its recommendations known to the

Mayor, and the Mayor has not yet made any finding that the barriers are "necessary in the public interest," § 5-1005(f). On this record it is quite conceivable that had the required statutory procedures been followed, the Mayor might ultimately have selected some other, less architecturally offensive, method for deterring bridge suicides. Indeed, it is conceivable that the Mayor may yet come to such a conclusion, once the necessary procedures provide full ventilation of the issues and alternatives. Defendants' failure to comply with the statutory procedures may thus have had the effect of compelling plaintiffs unnecessarily to endure an impairment to the architectural integrity of this historic landmark for the period now required to consider and take corrective action. It is not possible under these circumstances for the Court to conclude that plaintiffs have suffered no prejudice from defendants' noncompliance.

Defendants' final argument is a strange one coming from parties who traditionally assert the Home Rule interests of the District of Columbia with utmost vigor. This argument is that review of the proposed project by certain federal agencies obviated the need for submission to the HPRB. By this claim defendants ask the Court to disregard entirely the Historic Protection Act enacted by the City Council. However, it is clear that the standards for approval under the applicable federal statutes are different from those under the local Historic Protection Act. *See* 49 U.S.C. § 303 (1982); National Environmental Policy Act of 1969, § 102(2)(c), 42 U.S.C. § 4322(2)(c) (1982); 23 U.S.C. § 138 (1982); 16 U.S.C. § 470f (1982). Moreover, no public hearing is required under the federal statutes while, as previously noted, such a hearing is mandated under the local statute. Nor is the Court persuaded by defendants' contention that this is a case for preemption, for there appears no direct conflict or inconsistency between the federal statutes and the local Historic Protection Act. The Court finds defendants' argument on this point to be totally unfounded.

Having concluded that defendants did not comply as they were required with either the ANC Act or the Historic Protection Act, and the resulting impairment of plaintiffs' Home Rule representational interests and compromise in the architectural integrity of the bridge being plainly irreparable by money damages, there remains the question of what relief is appropriate in the public interest. Obviously, deterring or reducing suicides is in the public interest, as is safeguarding plaintiffs' Home Rule representational interests and the architectural integrity of the bridge. But as previously found, this Court is not in a position to determine whether the barriers are likely to be effective suicide deterrents or not. If it were clear that the barriers are effective for that purpose, it would require a much stronger showing of infringement to the bridge's historic architectural qualities to justify removing them than the present record provides.

In any event, the barriers are up now and have been for some time. Experience during this period may be of some aid in assessing their effectiveness. It would impose a substantial expense on the District to dismantle them, and for all this Court can tell the erection of those barriers may very well have been the final result even if the defendants had adhered scrupulously from the outset to the procedures of the ANC Act and the Historic Protection Act. If the barriers were now dismantled and then, after adhering to the procedures which the Court has concluded were required, the defendants hereafter find that erection of such barriers is necessary in the public interest, the District would be put to yet additional expense in constructing them anew. The public interest does not require any such extreme remedy, particularly when the defendants' legal error was a procedural one made in good faith.

Recognizing these difficulties, plaintiffs have not asked the Court to order defendants to remove the barriers at this juncture. Rather, plaintiffs suggest that the Court provide for the appointment of an "independent panel" to study the effectiveness of this type of barrier and of other devices or steps for suicide prevention, or alternatively that the Court appoint a special master to oversee the study of the subject which DPW has already undertaken to conduct.

The Court declines to adopt either of these suggestions. Plaintiffs and those who share their interests are free to conduct or to arrange for studies by any kind of experts or panel they believe may be able to provide helpful information, and to present such information to the defendants, without any order of this Court, and it would be premature for the Court to conclude that further judicial intervention in the Executive's decision-making process will be necessary now that the Court has identified the statutory procedures with which the defendants are obliged to comply.

The illegality which the Court has found is entirely procedural. Accordingly, the Court concludes that the appropriate remedy should be procedural, that is, to require the defendants now to follow the procedures which the Court has determined they should have pursued from the outset. The injury to the Home Rule representational interests served by the ANC Act, and to the historical, cultural and esthetic interests safeguarded by the Historic Protection Act, can best be remedied by enforcing compliance with the requirements of those Acts. This can be accomplished by an order directing the defendants now to apply for a permit to retain the suicide barriers on the Duke Ellington Bridge, and to refer such application for review to the HPRB and a public hearing pursuant to § 5-1005, along with thirty days' notice of such application to the affected ANCs and great weight consideration to any consequent recommendations by the ANCs pursuant to § 1-206. The Court will further direct that the barriers be removed unless the Mayor finds, under § 5-1005(e) upon completion of such proceedings, that retention of the barriers is necessary in the public interest. Pending such proceedings, the present barriers may remain in place.

An Order and Judgment implementing these conclusions is entered herewith.

March 27, 1987
Date

Ronald P. Wertheim
Judge Ronald P. Wertheim

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

JOSEPHINE BUTLER, et al., :
Plaintiffs, :
v. :
DISTRICT OF COLUMBIA :
DEPARTMENT OF PUBLIC
WORKS, et al., :
Defendants. :

Civil Action No. 0084-86

ORDER AND JUDGMENT

In accordance with this Court's Findings of Fact and Conclusions of Law entered this date, it is by the Court this 27th day of March, 1987, hereby

ORDERED, that defendants' motion to dismiss be, and it hereby is, DENIED; and it is

FURTHER ORDERED, that defendants' alternative motion for summary judgment be, and it hereby is, DENIED; and it is

FURTHER ORDERED, that plaintiffs' cross-motion for summary judgment be, and it hereby is, GRANTED to the extent specified in the aforesaid Findings and Conclusions; and it is

FURTHER ORDERED, that defendant D.C. Department of Public Works (DPW) shall, within thirty-one days of the date of this Order, file with the D.C. Department of Consumer and Regulatory Affairs (DCRA) an application for a public space building permit to retain the suicide barriers that have been constructed on the Duke Ellington Bridge, and DCRA shall promptly refer said permit application to the Historic Preservation Review Board (HPRB) for a recommendation on the application; and it is

FURTHER ORDERED, that, because the barrier project is in substance based on a claim of special merit, the Mayor shall hold a public hearing on the permit application pursuant to D.C. Code § 5-1005(e); and it is

FURTHER ORDERED, that after consideration of any recommendation by the HPRB and the aforesaid public hearing, and within 120 days after receipt by the HPRB of the referral from DCRA, the Mayor shall make a finding as to whether retention of the barriers is necessary in the public interest, and no permit shall be issued unless such finding is affirmative; and it is

FURTHER ORDERED, that DPW shall, within thirty-one days of the date of this Order, provide thirty days written notice of its intention and permit application to retain the suicide barriers to the affected Advisory Neighborhood Commissions (ANCs), which may make recommendations in writing within thirty days of the mailing of such notification; the issues and concerns raised in such recommendations of the ANCs shall be given great weight during the deliberations by the Mayor and governmental agencies involved, and those issues shall be discussed in the written rationale for the decision taken; and it is

FURTHER ORDERED, that the suicide barriers may remain in place during the pendency of the above-ordered procedures; if, at the conclusion of these procedures, the decision is to remove the barriers or the Mayor fails to find that retention of the barriers is necessary in the public interest, then defendants shall promptly dismantle and remove the barrier.

March 27, 1987 — Ronald P. Wertheim

Date — Judge Ronald P. Wertheim

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ELLINGTON BRIDGE SAFETY BARRIERS

STATEMENT OF PETER ESPENSCHIED, ADVISERY NEIGHBORHOOD COMMISSION, WARD 3C

ACCOMPANIED BY:

MYLES G. GLASGOW, ATTORNEY AT LAW

RICHARD GLICK, ATTORNEY AT LAW

Mr. DIXON. All right, Peter, you can have the last word on this.

Mr. ESPENSCHIED. OK. I might make this fairly brief. I thank you for allowing me to return today to provide information on issues that you raised after my testimony last Thursday. I urged then as a matter of fairness and respect for the local administrative procedures of Congress itself, established that Congress rescind its intervention in the deliberative process that led to a decision to remove the suicide barriers on the Duke Ellington Bridge.

The local decisionmaking process included many mental health professionals, most of whom considered the barriers to be at best useless as an instrument of suicide prevention.

The proponents of the barriers have persistently misrepresented the conclusions implied by the D.C. suicide data, and have also imputed to their opponents an aesthetics versus suicide prevention position, thereby raising a nonissue that obscures the facts.

The salient facts about the relation between the barriers and the suicide prevention are these: One, the barriers do not prevent any suicides. They only change the location. Since the barriers were put in place, there has been no related reduction in the number of bridge suicides nor in the number of all leaping suicides nor in the total number of suicides in the District.

During the past 11 years, from 1979 to 1989, all of these numbers varied greatly from year to year, but it may suffice to see that the highest number of bridge suicides for any year was in the first year after the barrier erection and that the two lowest years were both prior to the barrier erection, including one year when there were no suicides.

Dr. Donald McKnew of the National Institute of Mental Health, has authored numerous papers on depression, and earlier proceed on bridges he submitted an affidavit which has been transmitted to this committee.

In it he said suicide is nearly always a premeditated act, nearly always involves planning.

Mr. DIXON. Peter, I don't mean to interrupt you but I am going to. Let me try to refocus what I feel was the action that the Committee took. We are asking one, that the city government go through the same procedure they went through to put up the safety barriers; and that is for the Mayor's agent to hold hearings; an two, that the Mayor give us the rationale in writing.

Now, the Mayor and the District government at some appropriate time may take that testimony or perhaps they already have. The merits of the case I don't want to discuss here. I don think that we should pass on the merits of the case. The testimony here leads to the merits of the case.

I think Mr. Read understands our position, and has hit it right on the head. Our position is that the District government should go through the same procedure they need to install the barriers and the Mayor should give us the rationale for his decision. So all of this testimony about what various authorities say is not relevant to our action, and I have tried to give you the basis for that action.

Mr. ESPENSCHIED. OK. Mr. Chairman——

Mr. DIXON. If you would like to speak to that——

Mr. ESPENSCHIED. Yes; first of all, may I simply rationalize this process by saying that we did not expect or really desire to bring the merits of the matter to you except to the extent that frankly you had seemed very troubled about the real concern about suicide the last time that we were dealing with this, and you did raise issues which went to the merits, and I felt that we needed to respond to that.

If you will allow me, there is one point that has not been made about that which I think you should be aware of, because I think you are not entirely able to fence out a genuine concern, a human concern that would—whatever is decided should not cost lives.

Mr. DIXON. Good point. OK.

Mr. ESPENSCHIED. You have heard enough I think, about the matter of the locus of the suicides being changed. Obviously, the interpretation of the data has been different for you. You have to deal with that in your own judgment, but I do want to point out that the barriers have now been found, now that we have had 4 years of experience with them, to have created some new dangers.

There are three that can be identified. One is by complicating the process of rescuing suicide attempters, the barriers have created new hazards for the rescuers. There have been some injuries to firemen. Several times attempters have surmounted the barriers. Rescuers must in some cases be lifted or climb over the barriers to reach the attempter, and in all cases the bars are pried apart by machine and the attempter is then pushed or pulled through the opening.

Second, by substantially increasing the number of personnel, the amount of time and the amount of equipment involved in each rescue operation, the barriers have the effect of making the fire and police personnel and equipment unavailable for other emergencies for prolonged periods.

In one documented case, police were present for 6 hours involving seven officers and four police vehicles. Firefighters were present for 1¾ hours, involving 26 personnel and seven fire and rescue vehicles. This is an enormous change from the circumstances that existed before the barriers were there when a person attempting to attract police and fire attention and was rescued in a fairly orderly way.

Third, the diversion of suicides to other locations is making it inevitable that there will be less successful intervention, especially of previously unused sites, since it is less likely that someone will recognize the preparation for what it is in trying to summon help.

There have been nine bridges that have been identified by the proponents of the barriers that never were the locus of suicides prior to the barriers which have each attracted one or more suicides since that time, so there has been a spreading out from 7 bridges that have been involved prior to the barriers to 16 that now have been involved within the last few years.

As to the matter of the procedure, I need to make a point that it is the position of the neighborhood commissions involved that the Mayor's agent hearing was inappropriate, that it was not a proper procedure to have been held, and, in fact, it had not been involved at first. The decision to put up the barriers was made without any procedure, and then there was a suit filed which led to a finding that the Mayor had bypassed procedure.

The Mayor used the Mayor's agent. There was then a great deal of protest about the procedure, not just about the outcome, and the Mayor reversed that, which he undoubtedly had the authority to do with or without the Mayor's agent having made a finding, so that the decision in our best judgment—I think there is broad community census on this—the decision does belong to the Mayor except insofar as Congress intervenes, and the Mayor did make a decision, we believe, ro rly after a great amount of hearing material had been asseme an opportunity for all to be heard over an extended period.

He made what we believe was a fair decision to take the fences down.

Mr. Dixon. What we are asking is for the Mayor to inform us of the rationale and the procedure used in making that decision.

Mr. Espenschied. I think you have told us that.

Mr. Glick. Mr. Chairman, just for the record, the Committee for Public Safety requested that the Mayor's agent hold the hearings several months ago on this issue, and the city has never responded to our request at all. That is all that this provision does.

Mr. Dixon. Did you have something burning to say on the issue.

Mr. Glasgow. Yes; the city has known since the Taft and the Ellington were constructed at there were suicides going off of these bridges, and these two bridges were the No. 1 suicide bridges, but there is no evidence to support what you just heard; that is, that other bridges were never used until these fences went up. There is zero evidence.

Mr. DIXON. I think he is saying that the frequency on these other bridges——

Mr. ESPENSCHIED. Was zero. They were never used. They are the lowest on that list. Prior to 1986 they don't appear.

Mr. GLASGOW. Can I just point out that the statistics here are from 1979 through 1989. There are no statistics, although there is plenty of information prior to 1979. The city simply did not bother to keep in an easily obtainable form what bridges were the sites of what suicides, so nobody is truthfully able to say that other bridges in the city were not being used for suicides prior to 1979. And what you see is chart shows that before 1986, before 1986, particularly in 1982, three new bridge es appeared.

In 1984 another bridge appeared, and one of those prior new bridges was used twice, and in 1985 another bridge was used, so even before 1986 the progression was for diversity, and then in 1986 what happened was that 111 people in this city committed suicide for a 50-year high, and you bear persons trying to say that, well, because more people committed suicide, I guess that is cause they put up fences on the bridge.

It just doesn't make sense. The opponents to the fences argue hoc, ergo, propter hoc, "after this, then because of this" and that is a logical fallacy in logic 101.

Mr. DIXON. Now back to the merits again. I think I understand the merits on both sides of the issue.

Mr. GLASGOW. Thank you very much.

PREPARED STATEMENT

Mr. DIXON. I want to thank all of you today. I realize this is a very, very sensitive subject, and the convictions on both sides are held very, very strongly. The committee will discuss it, but I do think there is a basic procedure to be followed, and that we should, in fact, insist that the procedure be followed. The decision is left up to the District government. Thank you all for appearing today.

[The statement follows:]

STATEMENT OF PETER ESPENSCHIED

I thank the Chairman for allowing me to return today to provide information on issues he raised after my testimony last Thursday. I urged then, as a matter of fairness and respect for the local administrative procedures which Congress itself established, that Congress rescind its intervention in the deliberative process that led to a decision to remove the suicide barriers from the Duke Ellington Bridge.

The local decision-making process included many mental health professionals, most of whom considered the barriers to be, at best, useless as an instrument of suicide prevention. One of the psychiatrists involved in the local community is Dr. Randi Rubovits-Seitz, who lives within a half-block of the bridge. She has accompanied me today, and will be available to respond to any questions about the relation of suicide barriers to suicidal individuals.

The proponents of the barriers have persistently misrepresented the conclusions implied by the D.C. suicide data, and have also imputed to their opponents an "esthetics vs. suicide prevention" position, thereby raising a non-issue that obscures the facts.

The salient facts about the relation between the barriers and suicide prevention are these:

(1) The barriers do not prevent any suicides. They only change the location. Since the barriers were put in place, there has been no related reduction in the number of bridge suicides, nor in the number of all leaping suicides, nor in the total number of suicides. During the past 11 years (1979-1989) all of these numbers vary greatly from year to year, but it may suffice to see that the highest number of bridge suicides for any year was in the first year after the barrier erection, and that the two lowest years were both prior to the barrier erection.

Dr. Donald McKnew, of the National Institute of Mental Health, has authored numerous psychiatric papers on depression. In earlier proceedings on the bridge he submitted an affidavit which has been transmitted to this Subcommittee. In it he said, "Suicide is nearly always a premeditated act and nearly always involves planning. I have never seen a single reputable scientific study to suggest that passive site-specific approaches, such as metal barriers, have prevented a single suicide."

(2) The barriers have changed the locus of suicides. There are 16 D.C. bridges at which suicides have occurred during the 1979-89 period, according to data supplied by the barrier proponents. What they have not pointed out is that prior to the barrier erection (1979-85), all the suicides occurred at 7 of these 16. During the three years following the erection of the barriers, 9 additional bridges became suicide sites for the first time. Thus the one clear effect that the barriers have had on suicides is to dispatch them to many new locations. This statistical fact should amplify our psychological understanding: Suicides know the barriers are meant for them, and that the message is "we don't care what you do, but don't do it here." They do get the message, and they do do it somewhere else.

(3) The barriers have created new dangers. (A) By complicating the process of rescuing suicide attempters, the barriers have created new hazards for the rescuers. Several times attempters have surmounted the barriers. Rescuers must in some cases be lifted, or climb, over the barriers to reach the attempter, and in all cases the bars are pried apart by a machine, and the attempter is then pushed or pulled through the

opening. (B) By substantially increasing the number of personnel, the amount of time, and the amount of equipment involved in each rescue operation, the barriers have the effect of making the fire and police personnel and equipment unavailable for other emergencies for prolonged periods. In one documented case (Dec. 31, 1987), police were present for 6 hr 7 min, involving 7 officers and 4 police vehicles, and firefighters were present for 1 hr 42 min, involving 26 personnel and 7 fire and rescue vehicles. (C) The diversion of suicides to other locations makes it inevitably less likely that there will be successful intervention, especially at previously unused sites, since it is less likely that someone will recognize the preparation for what it is, in time to summon help.

It should also be noticed that the current financial issue is not whether money will be spent to remove the barriers. The barriers are already slated to be at least temporarily removed later this year, in connection with the renovation of the bridge that is currently underway. The question is whether we will spend additional money to re-install them when the renovation is completed.

In summary, these barriers are a sham of suicide prevention and a cause of trouble in their own right. Please, rescind the intervening legislation and let us be rid of them.

Thank you.

Chart 1

Bridges and Suicides, Washington DC 1979-1989

Bridge	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Total
Ellington	7	4	1	1		5	6	2				26
Taft	2	6		3			1	3	2	2	3	22
Chain				1						1		2
S. Capitol				1								1
11th St.				1		2		2	1			6
Key						1	1	1				3
Wilson							1					1
Glover								1				1
E St.								1				1
Other								1				1
Mass Ave.								1				1
Sousa								1	1			2
15th St									1			1
14th St.									1	1		2
Memorial										1		1
Spout Run										1		1
Total	9	10	1	7	0	8	9	13	6	6	3	72

FIGURE 6
ONE EXAMPLE OF THE PERSONNEL, TIME, AND UNITS OF THE POLICE AND FIRE DEPARTMENTS NOW NEEDED TO RESCUE AN ELLINGTON BRIDGE SUICIDE ATTEMPTER

DECEMBER 31, 1987

POLICE : 7 Personnel – 6 HOURS 7 MINUTES

FIRE : 26 Personnel – 1 HOUR 42 MINUTES

Police Scout Car #86
Police Scout Car # 104
Police Cruiser #242
Police Wagon #106
Fire Engine Company # 21
Fire Truck Company #14
Fire Battalion Chief #4
Fire Rescue Squad #4
Fire Truck Company # 10
(Aerial Platform)
Fire Ambulance #12
Fire Medic Unit #1

SOURCES: Metropolitan Police Department
D.C. Fire Department

According to residents of the area, this pattern has occurred on several other occasions. The rescue process is more difficult and time-consuming now than before the barriers were erected because instead of pulling an attempter off the ledge, emergency personnel must now handcuff an attempter (who has already surmounted the barriers) to the barrier bars. Then the bars must be pried apart by a machine. Then the emergency personnel must risk their own lives pushing and pulling the attempter through the pried-apart bars.

Obviously, these personnel and this equipment are not available for other emergencies and duties during these prolonged rescue efforts.

Affidavit of Donald H. McKnew, M.D.

1. I reside at 1127 Crest Lane, McLean, Virginia and maintain offices at 2033 K St. NW, Washington, DC.

2. I maintain a private practice of psychiatry in the Washington area, specializing in the treatment of depression. I am also a professor of psychiatry at George Washington University Medical School and a research psychiatrist at the Laboratory of Developmental Psychology at the National Institute of Mental Health. I received my undergraduate degree from Yale University and my MD from Johns Hopkins University. I performed my medical residency at the Columbia Presbyterian Medical Center in New York. I am the author of a book on child and adolescent depression, as well as chapters in the Comprehensive Textbook of Psychiatry and the Basic Handbook of Child Psychiatry. I am also the author of chapters in eight other medical books, as well as more than 70 articles in professional journals. I am an active member of all major national and local psychiatric societies.

3. I have 25 years of experience in treating suicidally-depressed individuals. During that time, I have treated several hundred children and adolescents who were discussing suicide, as well as more than 100 adults.

4. I have personal knowledge of the matters set forth in this affidavit, unless as otherwise noted.

5. Nothing in my practice of medicine nor in the research literature which which I am acquainted would lead me to believe that passive metal barriers on bridges, including specifically the Duke Ellington Bridge in Washington, DC, would prevent suicides. Suicide is nearly always a premeditated act and nearly always involves planning. I have never seen a single reputable scientific study to suggest that passive site-specific approaches, such as metal barriers, have prevented a single suicide, nor am I aware of any such case from my own practice of medicine or

my conversations with other professionals in suicide prevention.

6. If it were possible to erect barriers across all places in the metropolitan area from which leaping suicides might occur, including all buildings above the fourth floor and all bridges, monuments, metro stations and other structures, it is possible that the incidence of leaping suicides would be reduced. However, even in such a case, it is highly unlikely that the overall incidence of suicide would be reduced. An overall reduction in the number of suicides using the approach of blocking access to the means of suicide would require not only the barrier construction just noted, but also the removal of firearms, which are the leading method of suicide among males, from the hands of the population. It also would require the removal of all dangerous drugs, which are the leading cause of suicide among females, from the hands of the population, as well as the removal from the hands of the population of rope, knives, razor blades, poison, and other popular devices for committing suicide. Nationally, leaping ranks sixth as a means of committing suicide, usually accounting for less than five percent of suicide deaths. This is also approximately the ranking and proportion for the District of Columbia in any given year.

7. Since I testified in Federal District Court on Sept. 17, 1985, on the inadvisability of these metal barriers from a mental health standpoint, I have been approached by numerous other professionals in the suicide prevention field. All of them have reinforced the opinions I expressed there and am expressing here. None disputed the points I was making. A number of these professionals discussed the Ellington Bridge barriers as a kind of "bad civic joke."

8. Had any of these health care professionals been consulted on methods to reduce the incidence of suicide at

the Ellington Bridge and overall in the District of Columbia, we would have offered a different set of suggestions. The one option that I would characterize as the "genius idea" for the bridge site would be the placement of direct suicide hotline phones on the bridges, such as has been done with great success on the Hudson River Bridge in Dutchess County, New York. This option in effect solves the problem of placing trained professional suicide intervenors at a place where persons contemplating suicide might come. Among the other approaches to the problem that are also promising in the light of existing scientific studies are improved high school education programs, to deal with the growing rate of suicide among adolescents, better education of physicians to diagnose symptoms of severe depression among their patients, and strengthening the professional staffs and extending the hours of operation of suicide hotlines.

9. When a contagion problem of suicides exists, such as the clustering of suicides over a relatively short period of time at a bridge site, the problem is best dealt with in the same manner as adolescent cluster suicides in specific populations, such as high schools. That is, through the options recommended above, as well as a change in the type of publicity that the suicides receive. Either the publicity should be diminished altogether, or it should depict the suicides in light of the overall suicide picture in the metropolitan area and the need for depressed individuals to seek professional help. Such publicity should always include the address and phone numbers of places where professional aid is available.

Donald H. McKnew Jr. M.D.

Donald H. McKnew, M.D.

City of Washington)
District of Columbia) ss

Subscribed and sworn to before me this 2nd day of January, 1985.

Anne H. Rezzo

NOTARY PUBLIC
My Commission expires June 14, 1990

MUNICIPAL FISH WHARF

STATEMENT OF T. RODNEY OPPMANN, ATTORNEY FOR MUNICIPAL FISH WHARF

ACCOMPANIED BY:

VICTOR RAY PRUITT, PRUITT SEAFOOD OF NANCOCK, VA

BILLY RAY WHITE, BRW, INC.

STEVEN SHELTON EVANS, JESSE TAYLOR SEAFOOD

SMITH KENDALL MARTIN III, PARTNER, CUSTIS AND BROWN SEAFOOD

Mr. DIXON. All right, back on the record. Our next witness is T. Rodney Oppmann, an attorney for the lessees of the Municipal Fish Wharf. Before we get to you, Mr. Oppmann, I see Mr. Frain is here, and Attorney Elaine Mittleman. According to our records, those are the last two witnesses who have asked to testify.

Is there anyone else here who would like to testify?

Then we can see the light at the end of the tunnel. All right. We have with us Mr. Oppmann, who represents the lessees of the Municipal Fish Wharf. Mr. Oppmann, you have testified before this committee in the past. If there is written testimony, we would be glad to place it in the record. If you would introduce your witnesses and then summarize your statement, this would be the appropriate time.

Mr. OPPMANN. Thank you, Mr. Chairman.

First I would like to thank the committee and introduce the witnesses who are here. To my right is Victor Ray Pruitt, representing Pruitt Seafood of Nancock, VA.

To his right is Billy Ray White, representing BRW Inc., trading as Captain White Seafood City. Billy is originally from the Eastern Shore and now lives in Annandale. There are two other witnesses who are here.

The gentleman in the gray shirt is Steven Shelton Evans of Smith Island, MD, representing Jesse Taylor Seafood, and to his right is Smith Kendall Martin III, who is one of the partners of Custis and Brown Seafood.

All these businesses are located at the Municipal Fish Wharf located at 1100 Maine Avenue Southwest, on the Southwest Waterfront. We have four quick points to make, and we will make them as briefly as we can, Mr. Chairman, and Mr. Gallo.

First of all, we are here to thank you for your help in resolving some of the problems which we articulated last year. Due to the phone calls and actions taken both by the chairman and some of the staff members, other members of the committee, one of the serious problems that we had at the fish wharf was taken care of within a couple of weeks. I am talking about the removal of the boat from which drugs were being sold. We are very grateful for that, and want to recognize this committee for its help in that matter.

PLANS FOR FISH WHARF IMPROVEMENTS

Second, in response to the problems that have come up and been articulated to this committee and D.C. government, we have been encouraged after discussion with the Department Administrative

Services' Real Property Administration to go forward on our own, and in that respect we have worked with a very fine young architect here whose name is Richard C. Lesard, of the Lesard Group, who is present at the table and has drawn up a master plan for suggesting improvements at the wharf.

We are happy to present this to the committee. We can leave it here today. At the end of the printed statement is a reduction of this plan. To summarize the plan briefly, it would create a more efficient fish cleaning facility than presently exists.

The current building we think might be 100 years old. It was not designed as a fish cleaning facility. There is a lot of wasted space. It cuts down most importantly on our traffic flow, which is a critical element and creates a rather dangerous situation on weekends.

It will help to some extent our parking situation and will help to get people in and out, make their purchases, get their fish cleaned, and go home quicker than is now presently possible. We propose to put into the building over here at a site behind Morgan Seafood, and again this is just in the discussion stages, but perhaps we have left room for a skip jack exhibit to get an old boat up from the Chesapeake Bay.

We have an information committee, of course, that has been established for weekend programs and so forth, which we think will tie in with increased interest in the Southwest waterfront area. We met last week with Sasachi & Associates, a consulting firm, which has been under contract or is under contract with the Department of Housing and Community Development, and reviewed this plan with them, and they are taking our suggestions and requests under advisement.

What we are proposing is that we will pay for the building if we can get a longer term lease with some building escalator clauses for rent and so forth, a standard clause.

FISH WHARF LESSEES TO PAY FOR IMPROVEMENT PROJECT

Mr. DIXON. Let me stop you because I was interested in that. You will pay for the entire renovation?

Mr. OPPMANN. Well, what we are prepared to pay for, I believe, and we are working out, I am sorry, I don't have figures, but I should be able to provide them in the next week or so, for the demolition of the existing building, which is here in this area.

We would leave some green space here and sort of beautify with some planters and so forth, which we think would be appropriate on the waterfront. I will just hold this up so you can see it.

Mr. DIXON. Let me ask in another way, who is to pay for this master plan that you are suggesting?

Mr. OPPMANN. We propose that we pay for the building, the demolition of the building and the building of the new building. If there are other things that are consistent in terms of long-term permanent improvements to the waterfront, that these be considered by the District of Columbia, and we have, as a onetime budget line item.

DISTRICT AGENCIES INVOLVED IN FISH WHARF PROJECT

Mr. DIXON. What agency are you discussing this all with?

Mr. **Oppmann**. With the Real Property Administration of the Department of Administrative Services, and with the Department of Housing and Community Development in terms of the existing walkway which our prepared testimony points out, stops currently at 1000 Water Street.

The plans all along have called for a continuation to go on up to the Jefferson Memorial and the Tidal Basin, which would enable tourists to the city to walk all the way down past the restaurants and so forth to the Harbor Patrol Building at 5th and Water Street. There is a new metro stop that will be opening, the Portals project is underway.

We feel that there will be more activity, and we would like to do whatever we can to upgrade the fish wharf and to try and make it really worthy of the Nation's Capital, both in terms of the permanent residents here and tourists from within the United States and from overseas, many of whom do go to the wharf.

Mr. **Dixon**. All right, if you will talk now, Mr. Oppmann, about your continuing problems with some agencies of the D.C. government. I assume that is the reason you came.

PROBLEMS WITH DISTRICT OFFICIALS

Mr. **Oppmann**. Yes; the third point—one of the main reasons was to resent our master plan, really. We do have some continuing problems with the D.C. government. We find that more often it should be a case where we are required to go into court to litigate to establish basic rights that have been established, we think, by our lease.

DISTRICT OFFICIALS QUESTIONING FISH WHARF LEASE

The lease is being rejected by certain parts of the D.C. government, which say that it is illegal, that it doesn't reflect home rule thinking or statehood concerts. When we entered into this lease in 1986, we weren't told that there were to be statehood questions or home rule questions raised down the line.

Mr. **Dixon**. Why don't you stop right there and give the reporters an opportunity to switch.

INCONSISTENCY OF DISTRICT OFFICIALS

Mr. **Dixon**. Now let's go back on the record.

As it relates to the negotiations over the license for a delicatessen to steam crabs and shrimp, is the gentleman who is seeking the license present?

Mr. **Oppmann**. Yes, he is, Mr. Chairman.

Mr. **Dixon**. And your name is, sir?

Mr. **White**. Billy, sir, Billy White, trading as Captain White's Seafood.

Mr. **Dixon**. And Mr. Oppmann, did you represent him in the negotiations?

Mr. **Oppmann**. Yes, I did, Mr. Chairman.

Mr. **Dixon**. You got some kind of preliminary approval from the District, so at least you were moving forward with the business venture?

Mr. **Oppmann**. Yes; we received building permits based on fees paid by Captain White Seafood and Costas and Brown, and the building improvements took place at considerable expense.

We think there is——

Mr. **Dixon**. What do you mean? Did you improve the property?

Mr. **Oppmann**. Improved the property, special vessels were built for this purpose.

It was all cleared. We had numerous meetings, hundreds of hours had been spent, and now the District is changing its position,we think.

Mr. **Dixon**. All right. And you base that on the fact that you have been told that they don't think it's consistent with what, now?

Mr. **Oppmann**. With the original act of Congress, the 62nd Congress, which appears in our testimony of last year——

Dixon. OK. Now, were you told that orally or in writing?

Mr. **Oppmann**. We have been told that orally.

Mr. **Dixon**. And by whom? Were you told that personally?

Mr. **Oppmann**. I was told that personally, yes.

Mr. **Dixon**. By whom were you told that?

Mr. **Oppmann**. This gentleman right here, Mr. Henry C. Lee III.

Mr. **Dixon**. And he's with what agency?

Mr. **Oppmann**. Department of Consumer and Regulatory Affairs.

Mr. **Dixon**. And did you ask him for a written document expressing that opinion?

Mr. **Oppmann**. On page 2 of that letter, I asked him to approve or disapprove. He has done neither.

Mr. **Dixon**. And you wrote this letter on June 27?

Mr. **Oppmann**. It was hand delivered yesterday, yes, sir.

Mr. **Dixon**. How long have you been in negotiations?

Mr. **Oppmann**. Since January 5.

Mr. **Dixon**. When were you told this orally?

LETTER TO HENRY C. LEE III, DCRA OFFICIAL

Mr. **Oppmann**. Last week, when the inspectors who had been inspecting the project and who had approved everything except for the boilers, and they were told that they could no longer go there,that they had been called off by Mr. Lee.

[The information follows:]

Letter From T. Rodney Oppmann, Attorney at Law

June 27, 1990.

Mr. Henry C. Lee III,
Administrator, Business Regulation Administration, Department of Consumer and Regulatory Affairs—Room 621, D.C. Government, 614 H. Street, N.W., Washington, DC.

Dear Mr. Lee: Confirming our brief conference in your office at 2:30 p.m. yesterday in the presence of Mr. Maurice Evans of your staff and of Mr. Berlie Custis of Custis & Brown Seafood, whom I represent, with respect to the applications for delicatessen licenses from the Business Regulation Administration (BRA) so that Custis & Brown Seafood and another client of mine, B.R.W., Inc., t/a Capt. White Seafood City, can steam crabs and shrimp, this letter is to present the formal application for a Delicatessen License on behalf of the aforesaid B.R.W., Inc.

Please indicate whether BRA (a) approves; or, (b) disapproves this license application by checking the appropriate line below under the "Action Taken" portion of this letter, and by signing and dating it on the appropriate lines provided on the enclosed copy, and returning it to me.

To reiterate the point Mr. Custis and I were trying to explain before you abruptly asked us to leave your office yesterday, because the language of the Act of the 62nd Congress which created the Municipal Fish Wharf in March, 1913, contains no prohibition against the selling of cooked seafood at the Municipal Fish Wharf, my clients and I believe that the more reasonable position for BRA to take is to permit the steaming of crabs and shrimp in the manner which we first proposed to DCRA on January 5, 1990. Further, we submit that, having issued various Building Permits to both-Custis & Brown and Capt. White, DCRA is now estopped from arbitrarily and capriciously denying its approval with respect to the issuance of a Delicatessen License to each of these applicants once they have complied with all applicable D.C. construction and health codes, which we believe Capt. White has done. Any approvals which are not on the tendered Application of Capt. White, such as the approval of the Health Department Inspector, are due to the fact that you have told these inspectors not to inspect Capt. White's proposed facilities further because BRA was going to disapprove or reject their Delicatessen License application in any case, which has resulted in any further D.C. inspectors refusing to visit Capt. White's facilities.

To do otherwise gives the clear impression that DCRA favors the highly irregular and unfair position of failing to honor its word and its commitment given to these applicants in January of this year. Further, the clear impression is given that DCRA favors and supports the continuation of the existing monopolistic practice which currently exists on the Fish Wharf with respect to the steaming of crabs and shrimp (which only one business can do). This condition is contrary to U.S. Antitrust laws and is diametrically opposed to the position of the District of Columbia's Department of Administrative Services (DAS), which in January, 1990, not only approved the concept of Custis & Brown and Capt. White applying for Delicatessen Licenses to steam shrimp and crabs, but actually encouraged Custis & Brown and Capt. White to apply for delicatessen licenses so as to increase competition and to provide prompter service to the seafood-buying public at the Fish Wharf. DCRA has been aware of DAS's encouragement of this project since January, 1990.

Also tendered herewith is Capt. White's check made payable to the D.C. Treasurer in the amount of One-Hundred Thirteen Dollars ($113.00).

As time is of the essence in this matter, as because, as you suggested to Mr. Custis and me yesterday, it may be necessary for Capt. White to "sue me (i.e. BRA)", your immediate approval or disapproval of this request for a Delicatessen License is very much appreciated.

Very truly yours,

T. RODNEY OPPMANN,
Attorney for Delicatessen License Applicant,
B.R.W., Inc., t/a Capt. White Seafood City.

Encls: Completed Application Check for $113.

Action taken:

(a) BRA hereby approves the aforesaid Delicatessen License of B.R.W., Inc., t/a Capt. White Seafood City.

_________ By:__________________ Date:________________

(b) BRA hereby disapproves the aforesaid Delicatessen License Application of B.R.W., Inc., t/a Capt. White Seafood City.

_________ By:__________________ Date:________________

Mr. GALLO. May I ask a question, Mr. Chairman?

Mr. DIXON. Yes, sir.

FOULUP AT DCRA

Mr. GALLO. When you begin the process of requesting a building permit, don't you not only ask for the building permit, but also you outline the use?

Mr. OPPMANN. That is correct, Mr. Gallo.

Mr. GALLO. And for the building department, as I understand it, for them to give you a permit, it would have to have been an allowable use; is that not correct?

Mr. OPPMANN. That was our understanding, yes, Mr. Gallo.

Mr. GALLO. And you say that you did receive a building permit?

Mr. OPPMANN. Yes; that is correct, two building permits, one for Captain White, one for the Costas and Brown.

Mr. GALLO. Are both areas having problems?

Mr. OPPMANN. I would say yes, but Captain White's project is a little bit farther along. They had hoped to open this weekend.

Mr. GALLO. What I meant is did they inform you on both applications that they are not in a position to give approvals for occupancy permits, or user permits?

Mr. OPPMANN. The subject of Costas and Brown has not specifically come up because we are not in a position to make the formal checkoffs for a presentation.

But with respect to Captain White's Seafood, that has been discussed, and we have been told that it was not going to be approved.

Mr. DIXON. Mr. Gallo, I think that we can pursue this outside of the hearing, because I believe you probably have a laundry list of things.

Get to the second item please.

DELAY IN EXECUTING LEASE BY DISTRICT OFFICIALS

Mr. OPPMANN. We have just one more point. We feel that there are many, many fine people that we have dealt with in the D.C. government, and we are grateful that they are coming forward and working with us at the wharf, and I think progress is being made.

Nonetheless, we think the committee should be aware of the fact that there are some individuals who, I think, are for whatever reason, given whatever agenda they have, holding back on legal business transactions that should be taking place in this government.

And I think that the various trials that are going on——

Mr. DIXON. As it relates to the wharf?

Mr. OPPMANN. Yes; including the wharf, and that is why I included the Jack Anderson article of 2 days ago about the International Trade Cultural Center. That cost us 18 months in the negotiation of our lease, and we were told——

Mr. DIXON. How did that cost you 18 months?

Mr. OPPMANN. We were told repeatedly that that building was about to go in down on the southwest waterfront. When we checked with the White House with David Stockman's assistant, who is now the Congressman from his district in Illinois whose name slips me, but he wrote a letter which I can provide a copy of saying that there was no legislation pending, there were no sponsors, it would be a 15- or 20-year project at best.

Mr. DIXON. How did that impact your lease agreement at the Wharf?

Mr. OPPMANN. We are not sure. They kept telling us that the International Trade Cultural Center was going to have an impact, and we said, well, how? But again, that this was going to make major changes in the southwest waterfront.

STATUS OF PRESENT LEASE

Mr. DIXON. What is the status of the lease at the present time?

Mr. **Oppmann**. We are now in the fifth year of our first of two 5-year leases, and instead of going into a second 5 years, what we would like to do is bring about the——

Mr. **Dixon**. To renegotiate the whole deal, including renovations.

Mr. **Oppmann**. With renovations, major renovations which will take time to bring about, and we will need some firm commitment on the part of the District in order to invest the kind of money we are talking about, at the end of which title to the property would pass the United States of America, which owns the property.

Mr. **Dixon**. I understand the Federal Government owns the property now.

Mr. **Oppmann**. And that can be worked out, but that is the general concept.

Mr. **Dixon**. Any other problems?

SUIT OVER WATER LINE

Mr. **Oppmann**. None that I can think of. We have this suit over the water pipe that has gone on for quite a while now. We are trying to work out a settlement on that.

REMOVAL OF PARKING METERS

It's almost 2 years, and there has been an ancillary matter of some public parking meters that we asked to be removed, and we were told initially when they were installed that they would be removed if we wanted them removed.

The District government has gone back on its word on that.

Mr. **Dixon**. OK.

We will check into those things.

RATIONALE FOR QUESTIONING LEGALITY OF LEASE

Mr. **Oppmann**. One last point I would make, Mr. Chairman. We keep hearing repeatedly that the lease is illegal. It's not our lease form. It's the District of Columbia's lease form.

This reminds me of the teenager who shoots his parents and then throws himself on the mercy of the court as an orphan. There is something disingenuous about this argument.

Mr. **Dixon**. Who tells you that?

Mr. **Oppmann**. Various people in the corporation counsel's office, including the very highest levels. They say, your lease is illegal. If they really think that——

Mr. **Dixon**. What do they cite? I mean, why is it illegal?

Mr. **Oppmann**. Vague concepts that it doesn't reflect home rule, and that, again, this was negotiated in 1986. I believe home rule came in in 1975. If it doesn't, it's not our form. If people want to——

Mr. **Dixon**. You are an attorney. What are they talking about when they say the lease doesn't reflect home rule?

Mr. **Oppmann**. I am not sure, and I would be delighted if somebody——

Mr. **Dixon**. In other words, it's not a compatible use of that property; that Congress did not intend for commercial or retail fishing to go on there?

Mr. **Oppmann**. Not fishing, the sale.

Mr. **Dixon**. Well, sale; I didn't mean actual fishing.

Mr. **Oppmann**. I wish I could be more specific. I think there are political aspects involved here that——

Mr. **Dixon**. What do you think is happening? I mean, do you think they are trying to remove all of your vendors?

Mr. **Oppmann**. We touched on this last year, Mr. Chairman, at the end of our conversation. I believe there are people who would like to possibly take over the wharf for another use.

That was what the water pipe was all about. I understand there is massive expenditure of public funds for upgrading water development all throughout the southwest area. I don't know, but this is something that somebody has told me.

I will learn more about this in the coming months, that this might be something that is being done with public funds with an eye toward developers coming in.

I don't know. We didn't need a water pipe when they told us one fine day, with no notice, no hearing, we will see you Monday for your new water pipe.

Mr. **Dixon**. In other words, you think the District may have a different use in mind for the fish wharf other than allowing the present merchants to sell fish. Is that long term——

Mr. **Oppmann**. What I would say is that other people who know District officials have exhibited an interest. The District has never articulated any interest in the property other than a fish wharf, which is consistent with the act of Congress of 1913.

Now, we have——

Mr. **Dixon**. Why is it consistent with the act of Congress?

Mr. **Oppmann**. Well, Congress declared that it would be a fish wharf, the only fish wharf in the District, and the District officials we have dealt with by and large have gone along with that.

They said fine, we endorse the idea of a fish wharf.

COPY OF CONGRESSIONAL ACT

Mr. **Dixon**. Do you have a copy of that act?

Mr. **Oppmann**. Yes; I do.

Mr. **Dixon**. Would you leave it so Mr. Miconi won't have to research it for us?

Mr. **Oppmann**. Right here on page 404 of our testimony last year.

[The information follows:]

Sixty-Second Congress, Sess. III, Ch. 150, 1913

Fish wharf and market: Market master and wharfinger, who shall have charge of the landing of vessels, the collection of wharfage and dockage rentals, and the collection of rents for fish houses at the municipal fish wharf and market hereinafter established, for not exceeding sixteen months at the rate of $75 per month, beginning March first, nineteen hundred and thirteen, $1,200; assistant market master, who shall also act as laborer, for the same period, at the rate of $50 per month, not exceeding $800; in all, $2,000, to be immediately available; and the Commissioners of the District of Columbia are authorized and directed in the name of District of Columbia to take over, exclusively control, regulate, and operate as a municipal fish wharf and market, the water frontage on the Potomac River lying south of Water Street, between Eleventh and Twelfth Streets, including the buildings and wharves thereon, and said wharf shall constitute the sole wharf for the landing of fish and oysters for sale in the District of Columbia; and said commissioners shall have power to make leases, fix and determine rentals, wharfage and dockage fees, and to collect and pay the same into the Treasury, one-half to the credit of the United States and one-half to the credit of the District of Columbia, and to make and amend, from time to time, all such regulations as they may deem proper for the control, regulation, and operation of said municipal fish wharf and market; and all leases, subleases, and other private rights of occupancy in and to any or all of said property are terminated on, from, and after March fifteenth, nineteen hundred and thirteen; and all laws and parts of laws requiring the advertisement and sale of rights and privileges for a fish wharf or dock, and all laws or parts of laws inconsistent with the provisions hereof are repealed.

Mr. DIXON. We want to thank all of you for coming up.

There is one thing that you say in your testimony, and that is that "We would like to take this opportunity to invite the chairman and other interested members of the subcommittee to visit the Municipal Fish Wharf. * * *"

Mr. OPPMANN. We know you visit it regularly.

Mr. DIXON. Why would you assume that Mr. Gallo and I haven't been there?

Mr. OPPMANN. We are issuing yet another invitation. We know that it's a popular place.

Mr. DIXON. I imagine Senator Adams and his staff also have been down there.

Mr. OPPMANN. We thought if anybody had any specific questions, we could show you where things are. But obviously anyone that is——

ODOR FROM FISH WHARF DURING HUMID WEATHER

Mr. DIXON. When it gets very humid driving by there, it smells awfully bad. Is there anything you can do to cure that?

Mr. OPPMANN. Yes; we have done something. We have got a new system worked out, and we haven't had any complaints for 2 years, and that is thanks to the man who runs Riggo Fish House, Ben Edwards, who has done a marvelous job.

Mr. DIXON. The odor just carries when it's very humid, but I am not complaining about it. I am just mentioning it.

Mr. OPPMANN. We will see what we can do to cut down even farther, Mr. Chairman.

PREPARED STATEMENT

Mr. DIXON. You will hear from Mr. Miconi on the issues you have raised. Perhaps we can get together on it.

Thank you very much.

Mr. OPPMANN. Thank you very much.

[The statement follows:]

STATEMENT OF T. RODNEY OPPMANN

I. PREVIOUS APPEARANCES IN 1987, 1988 AND 1989

A. PRELIMINARY REMARKS

We, the Lessees of the Municipal Fish Wharf, 1100 Maine Avenue, S. W., Washington, D.C. 20024, appearing through our counsel, hereby express our most sincere gratitude and appreciation to the Chairman and the other distinguished Members of this honorable Subcommittee for again granting us the opportunity to advise you of progress made at the Fish Wharf during the past year, including the chance to explain the nature and status of a proposed Municipal Fish Wharf Master Plan for major improvements at the Wharf, which we now have under discussion with officials in the Real Property Administration of the District of Columbia Government's Department of Administrative Services.

B. APPRECIATION FOR ASSISTANCE RENDERED TO US

Since we reported to this Subcommittee on July 19, 1990, much progress has been made with respect to the problems at the Fish Wharf on which we reported last year. Thanks in large part to actions taken by this Subcommittee, including various telephone calls made by the Subcommittee's excellent Staff Director, Mr. Miconi, in early 1990 the 28' boat which had been illegally moored at the Fish Wharf for almost two years was towed away by the D. C. Harbor Patrol. In addition to expressing our thanks to the Chairman and Members of this Subcommittee, and your Staff, we also want to express our appreciation to Lt. Donald B. Thomas, Harbor Master, Metropolitan Police Department (Harbor Patrol) and his fine staff, for their part in the removal of both the 28' boat, as well as both of the vessels from which the "crack" cocaine dealer had been operating for over one year in 1988-1989, about which we reported to you last year.

C. RECOGNITION FOR ASSISTANCE PROVIDED BY D. C. OFFICIALS

In addition to our gratitude to this Subcommittee for its assistance during the past year, we would also like to express our sincere thanks for the cooperation and assistance shown us by the following D. C. officials and employees: Mr. Bob King, Administrator, Real Property Administration (DAS), and by his staff, particularly by Ms. Harriette Carver, Real Property Administration's Project Analyst who is responsible for administering the Municipal Fish Wharf, both of whom have worked with us and encouraged us to procede with the Master Plan for major improvements and who have tried to help us in working with other D. C. Government agencies. We also wish to express our gratitude to Mr. Freeman Hair, principal in H & E MANAGEMENT ASSOCIATES, which also provides invaluable management services to the Lessees of the Fish Wharf by virtue of a contract between H & E and the D. C. Government. We thank Mr. Hair for always making himself available to discuss ways to improve conditions at the Fish Wharf and for his professionalism.

II. PROPOSED MUNICIPAL FISH WHARF IMPROVEMENT PLAN

A. NEED FOR NEWER FISH CLEANING FACILITIES AND BETTER TRAFFIC FLOW

For several years, the Lessees of the Fish Wharf have brought to the attention of this Subcommittee and of appropriate D. C. Government officials the need for better traffic flow and parking at the Wharf, and, if possible, for a newer, more efficient fish cleaning facility to replace the ancient building from which we now operate.

Early in 1990, the Lessees of the Fish Wharf began discussing with Mr. King and Ms. Carver the possibility of the Lessees building, **at their own expense**, such a new fish cleaning facility. We have formulated a rough proposal and it is now under consideration by the Real Property Daministration, the Department of Housing and Community Development and other D.C. agencies. Today, we would like briefly to explain to this Subcommittee the goals of our proposal.

B. DESIGN PREPARED BY THE HOLLAND LESSARD GROUP

Enclosed at the end of each copy of our Brief Statement for the Record today is a copy of the Municipal Fish Wharf Master Plan created by Richard C. Lessard, AIA, a very talented architect in the Washington, D.C. firm The Holland Lessard Group. Mr. Lessard's experience in over twenty years as a practicing architect includes design work done on The Gangplank Restaurant in 1970. Both Rick Lessard and his partner Dorothy Holland, AIA, who is the granddaughter of skipjack oysterboat captains on both her maternal and paternal sides, have considerable personal experience with maritime settings and fisheries, and have a keen eye for nautical-style architectural structures such as the new one with which the Lessees of the Fish Wharf propose to replace the existing structure.

C. PRIMARY GOALS: GREATER SAFETY AND EFFICIENCY

In addition to being highly inefficient, with the majority of its space unutilized or underutilized, the building currently used to clean fish is subject to structural deterioration and is, literally, falling down as we use it. Further, it is dangerous, dirty and a very substantial impediment to orderly traffic flow and to badly-needed parking spaces. The Lessees of the

Fish Wharf are now proposing to replace the current building with a new facility specifically designed for fish cleaning and to meet the other needs of Washington, D.C.'s Municipal Fish Wharf.

Our main goal is to provide a safer Fish Wharf by improving traffic flow. On weekends and holidays, we have the worst traffic congestion and, at times, gridlock, of any business area in Washington. A second major goal is to provide faster, more economical fish-cleaning facilities and services to our customers and to pass the resulting savings on to our customers by virtue of the resulting increased volume of fish sold and the increased total number of sales. This building will also contain better, more modern restrooms, as well as a small office and storage space for the D. C. Harbor Patrol.

D. BETTER, SAFER TRAFFIC FLOW

The relocation of the fish cleaning and restroom facilities as proposed will, we believe, result in better traffic flow, creating safer conditions for both the seafood-buying public and for the ever-frequent tourists and passers-by hwo stroll through the colorful and unusual setting at the Fish Wharf. Our proposal would complete the walk-way which begins at the D.C. Harbor Patrol building (at Water Street, S.W. and 5th Street, S.W.) and which now stops at the Capital Yacht Club, which is located at 1000 Water Street, S.W., next to the Fish Wharf.

E. LESSEES SEEKING A NEW, 25-YEAR LEASE, WITH 10-YEAR OPTIONS

To allow them time to amortize the costs of this project, the Lessees of the Municipal Fish Wharf seek a lease with an initial term of 25-years, with the necessary periodic rent reappraisals built into it, with two (2) additional ten (10) year options. This total term of up to forty-five (45) years matches the fifty (50) year term for the Municipal Fish Wharf Lessees which was proposed by Congressman Frank Wolf to this Subcommittee in his appearance before the you in 1986. At that time, Mr. Wolf questioned then-Director of D.C.'s Department of Administrative Services, Mr. William Johnson, about the failure of his Department to provide a lease after eighteen (18) months.

We believe the proposal term is consistent with the ninety-nine (99) year term leases under which the various seafood restaurants adjacent to the Municipal Fish Wharf are operating, each of which restaurant leases currently has a balance of approximately seventy-five (75) years remaining.

F. CONCLUSION

We would like to take this opportunity to invite the Chairman and any other interested Member of this Subcommittee to visit the Municipal Fish Wharf so that they can see first hand the conditions referred to hereinabove, as well as where our proposed improvements will be situated. Of course, this same invitation is extended to the Subcommittee's staff members.

We would like to make improvements to the Fish Wharf to bring it up to the world-class standards of Fisherman's Wharf in San Francisco, South Street in New York and the Fish Wharf in Monterrey and would greatly appreciate the continued interest in and support of this Subcommittee.

III. CONTINUING PROBLEMS WITH SOME AREAS OF D.C. GOVERNMENT

We believe most civil servants in the D. C. Government are honest, hard-working individuals. However, we regret to inform this Subcommittee that although considerable progress has been made with respect to the problems reported last year, major problems still confront us in several important areas. During the past year, we have experienced significant incompetence and possibly illegal actions on the part of a small but well-entrenched number of D.C. employees.

For example, we are still being required to litigate -- at great and unnecessary expense to us -- to establish the most basic rights to quiet enjoyment of our leased property. This week, after six (6) months of effort and expenses of approximately $250,000 by two of the Lessees of the Fish Wharf who have been encouraged by Bob King and Harriette Carver in Real Property Administration to begin steaming crabs and shrimp, the D.C. Government's Business Regulation Administration, which is headed by Mr. Henry C. Lee, III, has refused to grant licenses to begin operations.

The clear impression given is of a local Government which has run amok.

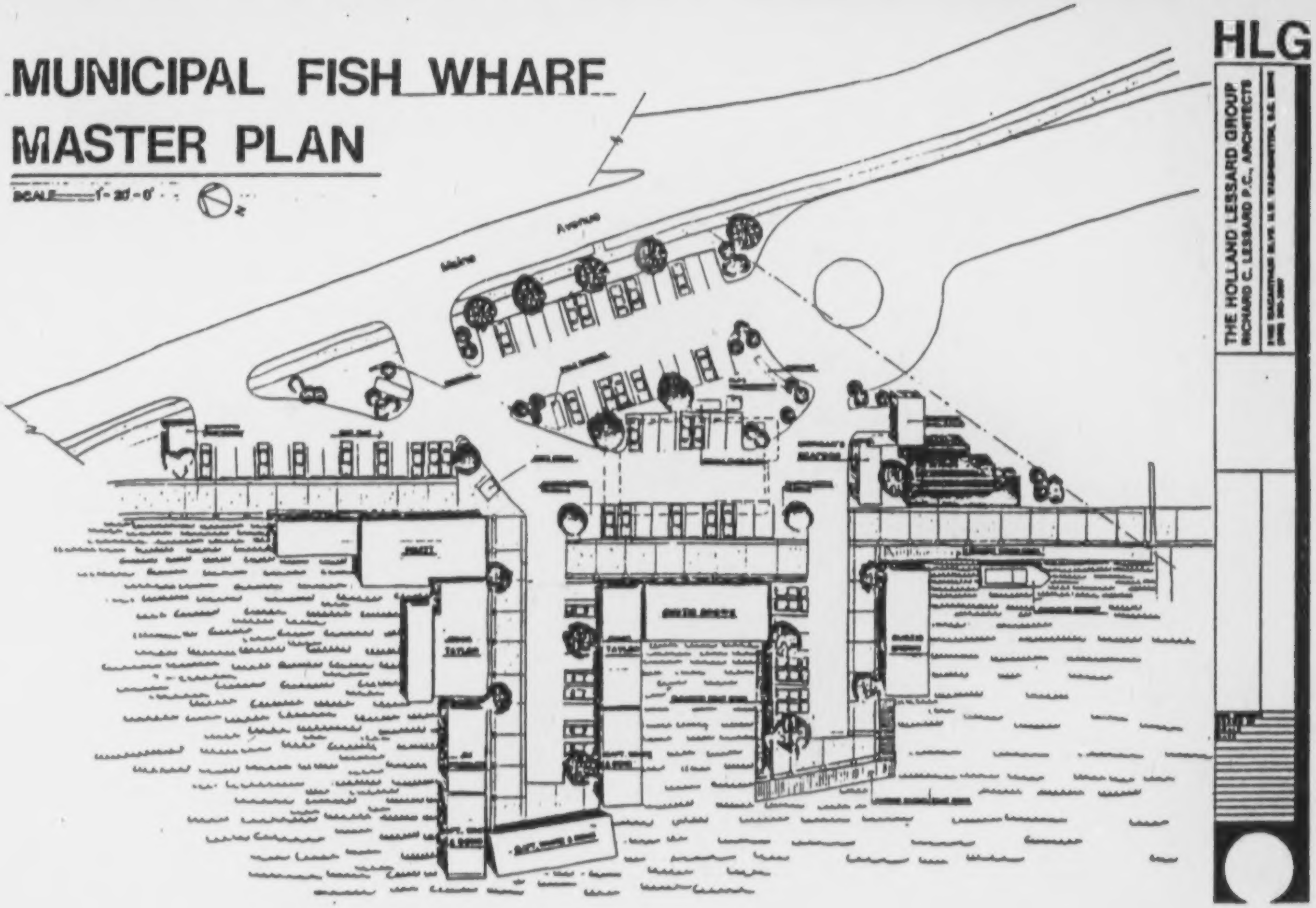
Also attached to this Statement is a copy of an article from this Tuesday's Washington Post, June 26, 1990, entitled "Costly Federal Building Under Scrutiny". A host of irregular activities involving Mayor Marion Barry and other high-ranking D.C. officials were reported by us to this Subcommittee. These activities were the reason why we were denied the renewal of the current lease for a period of over 18 months in 1985 and 1986.

We are available to provide more information to this Subcommittee and/or to other government Committees, Subcommittees or agencies to improve the regrettable conditions and situations to which we refer. Again, however, we wish to stress that it is a small number of government employees who are causing these problems.

Last, we want to indicate to this Subcommittee that the unsigned, undated response to the questions posed to four high-ranking D.C. officials during last year's hearings is, in our opinion, largely misleading. We are currently preparing a written response to this answer and will forward it to the Subcommittee.

Again, thank you, Mr. Chairman, and the other distinguished Members of this honorable Subcommittee for the opportunity to address you today about these matters.

MUNICIPAL FISH WHARF MASTER PLAN


SCALE 1" = 20'-0"
Maine Avenue
HLG
THE HOLLAND LESSARD GROUP
RICHARD C. LESSARD P.C., ARCHITECTS

[From the Washington Post, Tues., June 26, 1990]

COSTLY FEDERAL BUILDING UNDER SCRUTINY

What has been hailed as one of the most innovative federal buildings in history, second in size only to the Pentagon, now has a price tag to match its excess and congressional investigators want to know why.

Why has it nearly doubled in price? Why did the development contract go to the highest bidder? And why did Washington Mayor Marion Barry have a say in who got that contract?

The building is just one more example of the twisted way in which the federal government shops for office space—leasing when it should buy, buying when it should lease and paying more than it should in both cases.

The project is an International Culture and Trade Center in Washington, on Pennsylvania Avenue between the White House and the Capitol. The concept for the building is fuzzy—offices for various agencies, including some that deal with trade policy, plus a performing arts center and shops. The plan is to have a private developer build the trade center and lease it to the government for 30 years, after which the taxpayers would own it.

It was inevitable that the federal government couldn't pull off a project of such magnitude—3.1 million square feet—without stumbling. Construction has not yet begun and the price tag, once estimated to be $460 million, is now well over $800 million. It may hit $1 billion before Congress says enough is enough.

A presidential commission, the Pennsylvania Avenue Development Corp., made up of business people, federal bureaucrats and government officials, is overseeing the project.

Some members of Congress suspect the PADC may have violated the law in the way the development contract was awarded, and that the rising costs will turn into a major financial disaster.

"It may be the biggest white elephant the government has ever gotten itself involved in," one congressional insider told our associate Scott Sleek.

Last October, the PADC gave the contract to the Delta Partnership, a company that offered to do the job for $746 million, which was nearly $250 million higher than the lowest bidder. The PADC said simply that it liked the Delta design better than the others.

Delta is controlled by people who have developed other controversial projects in Washington, including one man who is a former consultant to the PADC.

Barry is a voting member of the PADC but rarely casts his ballot. He is normally represented at meetings by one of his underlings. But the mayor showed up at the October meeting and cast his vote for Delta. We have learned that Congress is probing the legality of Barry's vote because of a law that says federal money can be committed only by federal employees.

Before the vote, Barry wrote a letter to the PADC saying that "commitments to affirmative action" were just as important as the design of the building.

In addition to investigating Barry's role, members of Congress are also raising eyebrows over the cost. They should be tearing their hair out. Critics say the price may rise over $1 billion, more than twice the original estimate. That will drive up the rents for every federal agency that uses it.

MUNICIPAL PARKING

STATEMENT OF J. GEORGE FRAIN, SECRETARY, 18TH AND COLUMBIA ROAD BUSINESS ASSOCIATION

ACCOMPANIED BY:

HILDA RIVAS, PRESIDENT, 18TH AND COLUMBIA ROAD BUSINESS ASSOCIATION

KATHIE DEMATATIS, VICE PRESIDENT, 18TH AND COLUMBIA ROAD BUSINESS ASSOCIATION

Mr. **Dixon**. Next we have Mr. Frain. And we have one witness after that.

We have with us Mr. J. George Frain, who is with the 18th and Columbia Road Business Association. Mr. Frain has testified many times before, and he is here in general on the 1991 budget.

Mr. Frain, you have two people with you. Why don you introduce the ladies.

Mr. **Frain**. I have Mrs. Rivas, who is our president, Hilda Rivas, who is a leader in the community; and I also have Kathie Dematatis, who is an incoming vice president and who was with Senator Robert Byrd for many years on Capitol Hill.

Mr. **Dixon**. Very nice to meet both of you.

Mr. **Frain**. So I thought——

Mr. **Dixon**. You thought you would bring her along.

Mr. **Frain**. I thought I would bring her along.

Maybe she would have some success that I have not been able to achieve.

Mr. **Dixon**. OK. Let's see.

Mr. **Frain**. I would like to yield a minute or two to Mrs. Rivas and to Mrs. Dematatis to make their statement, and then I will summarize.

Mr. **Dixon**. All right.

STATEMENT OF HILDA RIVAS

Mrs. Rivas. My name is Hilda Rivas, and I am the President of the 18th and Columbia Road Business Association.

Mr. **Dixon**. You are the president.

Mrs. **Rivas**. Yes; and I came 2 years before this. I was speaking about parking, and we have been working and trying all kinds of things to see if we can get relief of the ticketing an these things, and we haven't got any.

And then I was reading about all this congressional parking, and I was thinking if you could tell me how did you get it? Because we have been trying all kinds. We went to the City Council. We went every place, and I see 10,000 Congress cars parking a year, and we go around and we see some for the Congress how did you get the City Council——

Mr. **Dixon**. I would suspect it's Federal land. We have had this conversation in the past.

Are you saying that we have some Federal parking in your area where your merchants are?

Mrs. **Rivas**. No; I mean, it's all around, and since you told me last year to go to the City Council, we went. But they didn't pay any attention to us, and we haven't achieved any parking at all.

And some people crying and some businesses going out of the city. Many people invested in there, and they have to leave.

Mr. **Dixon**. Well, the short answer is I would suspect the parking you are referring to is Federal property. But it's not in your area. Your problem is you don't have enough parking——

Mrs. **Rivas**. We do have Federal land. Isn't that the Community Park West? Isn't that where the Ellington Bridge, the West Park, I think is Federal.

Mr. **Frain**. I think it's about 90 percent Federal funds that helped to acquire the Community Park West.

Mr. **Dixon**. And parking is a problem there.

Mrs. **Rivas**. It's all part of the Adams Morgan. I mean, there is a big part that would be put to the best use with this ability to waste, knowing that people are crying and many people are going out of business.

Mr. **Dixon**. Well, Mrs. Marshall, isn't that the area that the gentleman at the end of the table was talking about? There is a park there.

Mrs. **Rivas**. It's a park, but it's a big gully on the north side and it's a very large space.

Mr. **Dixon**. So you say it's too much park and there should be some parking.

Mrs. Rivas. No, no, no, the park is—should be there, but the wasted space, it's a pity to waste it when it's so much of need and it could do so much a good thing to the area.

Mr. Dixon. What space do you think is wasted?

Mrs. Rivas. The gully. It's an enormous space in there.

Mr. Dixon. The gully?

Mrs. Rivas. The gully is a waste of space, and he knows, and we have plans, and it could be put to a very good use, and it could be done for an enormous help to the Connecticut Avenue, to the Adams Morgan to have people who come into the Adams Morgan, which is a very ethnic area, to not be penalizing the way they are.

People are going out of business, young professionals they are coming and nobody to get there because there is nowhere to park, and they have to come by car because there is no other way.

Mr. Dixon. You think that is Federal property.

Mrs. Rivas. Yes; it's Federal property.

Mr. Dixon. We will check into that.

Did you get that information from the city or something?

Mrs. Rivas. I got this information from not officially, but from asking people and from what's his name, Walter Pierce is the one who is the administrator of the park, and he was the one said to ask for us to have the parking in there.

Mr. Frain. If I may interject something, Mr. Chairman, I think what Mrs. Rivas may be referring to is a situation that is somewhat comparable to the Ellington Bridge situation that you ran into.

In the Ellington Bridge situation, it was an 80/20 division of funds, 80 percent Federal. Most of the money that went into the Community Park West to acquire that land is Federal. It was while Mr. Natcher was chair, before your ascendancy to this post.

Mr. Dixon. Before I ever came to Congress.

Mr. Frain. Well, perhaps but it was some years ago.

But nevertheless, without the Federal contribution, Senator Chiles from Florida was also active in this acquisition.

But without the Federal funds, something like $600,000, or $500,000, it was an enormous sum, it would never have been acquired as a park.

And Mrs. Rivas is talking about a gully section. There is also Frank Smith, a council member from the area that you told us to talk to last year when we got into this discussion. He has suggested that at the east end of the Ellington Bridge at the bus turnaround, that part of the park, which is part of the acquisition, which is not developed as a park, could be used for parking a number of cars that would help serve the community.

OWNERSHIP OF GULLY PROPERTY

Mr. Dixon. Ms. Marshall, does the District hold title to the property?

Ms. Marshall. I think it does, but I will have to check.

[The information follows:]

LAND ADJACENT TO COMMUNITY PARK WEST

The land adjacent to the Community Park West is a gully which is owned—50 percent by the National Zoo and 50 percent by the District government. Thus all of this land does not belong to the District nor is it suitable for parking.

Mr. **FRAIN**. I think it's been turned over to the District for management. But the fact of the matter is that there is as much Federal—a higher percentage of Federal funds in the Community Park West as there is in the bridge. So it's essentially the same thing.

Mrs. **RIVAS**. I walk through the place, and you might think I am crazy, but I see some people that come into my restaurant who say, when are we getting parking because I am going out of business.

They go to the bank to get loans to make a business and to try to make it, and then nobody can get there because you get some tickets. They ticket customers until 12 o'clock at night. Whether it's right or wrong, I don't know, but that is what they are doing.

Mr. **DIXON**. As you know, it's strictly for enforcement. At least that is what the District will tell you.

Mrs. **RIVAS**. And then such a waste, I don't mean to take the park. The park is wonderful to be there. But the waste which is there because some of it could be put to good use should be considered.

Mr. **DIXON**. Well, we will check into it.

Mrs. **RIVAS**. Please do check.

Mr. **DIXON**. I cannot make any commitments, but we will check into it.

Mrs. **RIVAS**. It could be very good to the city.

Mr. **DIXON**. Do you have parking adjacent to your business?

Mrs. **RIVAS**. No; I don't, I don't.

Mr. **FRAIN**. Most of the rest of us don't have parking.

STATEMENT OF KATHIE DEMATATIS

Mrs. **DEMATATIS**. I am Kathie Dematatis, and thank you for affording us this time.

The reason I am here is although Senator Byrd did bring me to Washington many, many, many years ago—he was chairman of the District committee in your capacity then, so you know how many years that is.

I am a real estate broker in the District of Columbia, and I do a lot of work in the Adams Morgan area and surrounding area, and I deal primarily with individual, small-time shopkeepers, storekeepers, that type of business.

And I must tell you that they come into Adams Morgan, they come into Mount Pleasant, and they spend all of their life savings, and they put together what were once dilapidated properties into beautiful buildings, and then they wait for business.

And the parking situation, in addition to the extraordinarily high taxes, which the owner occupants of buildings must sustain, and then the tenants of these buildings also have a burden, if their lease requires, the taxes are passed on to them, has made the economic climate in Adams Morgan and accompanying areas very, very difficult.

The parking solution that Mrs. Rivas has been expounding, and George Frain has been expounding, not only to this committee but we have brought every—almost every individual who is running for Mayor in the District of Columbia to have a conference with us, and we have discussed our problems in parking with them.

Mr. DIXON. Did they find places to park?

Mrs. RIVAS. They have chauffeurs.

Mrs. DEMATATIS. But you see what is happening so often, the people park illegally because there is nowhere to park. I do it myself. I have to run in just to see somebody for 3 minutes. There is no place to park. I am not going to park 20 blocks away or 10 blocks away or 5 blocks away. I will leave it just on the curb for a minute, and so often I will come back and there is a ticket on there.

I don't do it to break the law. I did it because there is no other place to park. And so what Mrs. Rivas is asking, for the health of the city, because some of these people are leaving our city. They don't want to leave, but they are leaving our city.

When you go in to buy an article of clothing, and you are watching to see what is happening with our meter and the DOT is out there ticketing you almost before the meter has hit the red mark, there is a crisis in these communities which a parking complex such as she is proposing, and the park could be preserved.

You know, it's actually a vacant, unused piece of land now, in my opinion. You could put a lovely park on the top, and then layer it as they do in European communities.

Mr. DIXON. Well, you say Councilman Smith.

Mr. FRAIN. Frank Smith.

Mr. DIXON. You have evidently been to him and talked about this issue?

Mr. FRAIN. Last year you suggested we talk to the councilman from our area. We had already been talking to him, and——

Mr. DIXON. What does he say?

Mr. FRAIN. Well, actually the situation has changed rather dramatically. He got married. He got a new wife with a lot of money and went to Paris for his honeymoon, and he came back and he said in Paris, at dusk, they take off the controls. I mean here, Mrs. Rivas' restaurant and others in our area, they are ticketing cars until midnight.

Mr. DIXON. I guess what I am asking is whether he is focusing in on the issue now?

Mr. FRAIN. Well, a little bit more. Let me tell you what the problem is, if I—on my time.

Essentially, we got a D.C. Zoning Commission with two Federal representatives on it, one from the National Park Service, John Parsons from the National Park Service, who represents the administration and President Bush.

The other representative on this Zoning Commission is the Architect of the Capitol, and George White had that job for years, and now he is turning it over to one of his assistants.

The problem is that we have a comprehensive plan which specifically calls, if I may call to your attention and the comprehensive plan is something Congress mandated, to Federal representatives that pay no attention to it.

Section 504(3) says, "Encourage adequate short-term on-and-off-street parking to meet the needs of increased retail development at designated locations."

Section 504(6), "Encourage the supply and management of public parking in commercial areas, to afford priority to customers and others on business errands for available off-street and curb parking spaces, and discourage the use of these spaces by all-day parkers, including establishment of employees."

Now, our point is somewhat different. We did some research. First, many of the streets, I mean when we came up here this morning to testify, I mean, streets in half a dozen blocks away are by permit only for congressional employees. That is not something that—that is not Federal land. That is city land. If we park, we have to have meters.

I suggest that the city's financial crisis might be helped if they put meters on some of the streets where staffers and journalists and others who are working with Congress get free parking, by permit only.

Second——

Mr. DIXON. Mr. Frain, we went through that before.

Mr. FRAIN. No; we never have looked at it so precisely. You told us to go back and do some research.

Mr. DIXON. My point, and I am not arguing with you, is that what you have just referred to is not going to help your problem out in the Columbia Road area.

ZONING COMMISSION

Mr. FRAIN. I understand that, sir, but what I am trying to say is that for 4 years the D.C. Zoning Commission, which is an independent agency funded by your committee, and Senator Adams' committee, has had two, for years has had two Federal representatives on it, one representing Congress, one representing the President.

Mr. DIXON. OK.

Mr. FRAIN. They totally ignore, in 4 years in Reed-Cooke zoning, totally ignore these parking provisions.

The other day—we have a review every 2 years. Now, you would think that a Federal representative would at least know what the law is. I mean, maybe the local people that the Mayor appoints while he is in these troubled times, but you would think that a Federal employee would, or two Federal employees would be responsive to the provisions, these parking provisions in the comprehensive plan.

The other day, D.C. Council Chairman David Clarke got to the Planning Office, headed by Fred Greene, and Fred Greene asked him whether they had implemented the comprehensive plan and he said they had not implemented it in the entire city, they could not find a place where they had. He could not cite a place where these parking provisions had been developed or implemented.

Now, you know, you cannot—that isn't something that you have said go back and talk to our council member. How—what possible influence could our council member have on two Federal employees? I would think that you might begin looking at our problem by talking to the Architect—the guy from the Architect of the Capitol's Office who is on the D.C. Zoning Commission.

They are on the D.C. Zoning Commission by congressional enactment. And what I am saying is that——

Mr. DIXON. How large is the commission, Mr. Frain?

Mr. FRAIN. It's a five-member commission.

Mr. DIXON. And the other three are appointed by whom?

Mr. FRAIN. By the Mayor. And I have no problem, except that you cannot, when you develop a comprehensive plan which Congress mandated in the Home Rule Act——

Mr. DIXON. And they have developed a plan.

Mr. FRAIN. Yes; you cannot pick and choose which provisions you are going to implement.

TWO MAJOR GARAGES

Now, for instance, in Reed-Cooke on Columbia Road, between 18th and 16th Streets, just to give you some idea, there are two major garages, and they cannot get a certificate of occupancy because of the rezoning that has had them in limbo for some time.

They could be implemented for parking. They ought to be given a certificate of occupancy. The Zoning Commission could do that. I would suggest if you——

Mr. DIXON. Who owns those garages? The District?

Mr. FRAIN. The District doesn't own them. They are in private hands. What I am saying is they have tried to get a certificate of occupancy so they could help solve the parking crises in Adams Morgan. It doesn't appear in my statement, but they cannot get it.

Mr. DIXON. How do you happen to know all this?

Mr. FRAIN. Well, you know, it's a small community.

Mr. DIXON. I mean are the owners complaining?

Mr. FRAIN. We have been talking to their agent. We have been talking to Pat Patrick, and he represents them, and he cannot get a certificate of occupancy. He was up here last year.

The point is, Mr. Chairman, that this doesn't cost the city one dime. If you got parking in there, they could begin parking immediately, start paying taxes, providing jobs for people that would run the parking and this doesn't cost a dime.

Mr. DIXON. We are doing to check into it.

Mrs. RIVAS. Check about the gully also, please.

Mr. FRAIN. The gully is another thing.

Mr. DIXON. There are two things that we are going to check on: The most recent thing that you mentioned are the two existing parking structures, and that the owners cannot get a certificate of occupancy——

Mr. FRAIN. One of them was owned, Mr. Chairman, by the National Geographic Society, and the other was occupied for many years by the U.S. Army Medical Museum, which keeps the brains of generals and others—other interesting historical medical specimens. And they moved out to the Army Medical Center or the National Medical Center.

But we have had a tough time.

Mr. DIXON. So we are going to check on that, whether they are ready for occupancy and what the status of their certificate is.

And the other is the property near which you describe as a gully near the park.

Mr. **Frain**. Well, the gully is on the north side. It's probably a couple of acres, and there is some space—Frank Smith says, our council member, right in back of the bus turn-around, which is not a developed park.

This is a 6-acre park.

RESPONSE FROM CITY COUNCIL MEMBER

Mr. **Dixon**. Did you talk to Mr. Smith and has he gotten back to you with some answers?

Mr. **Frain**. Well, we have been talking to him.

Mr. **Dixon**. But has he given out some explanations?

Mr. **Frain**. He has suggested this, and he is going to put it in writing.

Mr. **Dixon**. What has he told you?

Mr. **Frain**. He has told us that this space back of the east end of the Ellington Bridge where you got into trouble this morning, or whenever you got into trouble with the fences. What I am saying is that the east end of that bridge is where this park is.

Mr. **Dixon**. You have taken this problem to your local representative, he listens to you, he's gotten into it, but he has taken no action and he's told you, sir——

Mr. **Frain**. He's just beginning to talk to us about it.

Mrs. **Rivas**. He is just starting to realize that we are right.

Mr. **Frain**. It may be because he is running for reelection, I would suspect.

Mrs. **Dematatis**. Mr. Chairman, that is the frustration. You see, these are the people who live there daily. They live there like you live here, and they know the area so well, and each time we get someone to hear what we have to say, they propose some kind of study that will be conducted at some future point, and this has been going on for years.

I mean, we talk about parking at every possible opportunity and nothing has happened beyond——

Mr. **Dixon**. Well, maybe nothing has happened, but there may be some reasons, and all I am trying to ascertain is whether you feel abandoned by the city councilman. But I gather, he is working on the project.

Mr. **Frain**. I think he has become quite interested in it.

Mr. **Dixon**. But perhaps he has a logical reason from his point of view as to why there shouldn't be parking?

Mr. **Frain**. No, no, no. I think he would be delighted to work with you on parking.

Mr. **Dixon**. Work with me?

Mr. **Frain**. Mr. Miconi or whoever. I mean, you know, we just want—he is not unresponsive. I mean, he is a good person——

Mr. **Dixon**. Well, then, it's in his hands.

Mr. **Frain**. Well, he needs some help.

Mrs. **Rivas**. We have been crying for parking space, and that wherein your view to use—I am from Spain. You cannot allow, you don't have the luxury of the space wasted. He realized that it could be put to use.

Mr. **Dixon**. Who have you been dealing with in Mr. Smith's office? Have you been working with him directly?

Mr. **Frain**. Mark Brown, who was here this morning, and Frank Smith himself. Mark Brown was here this morning on the Ellington Bridge case, although he didn't testify.

But my point is, and I cannot stress it too much, that the congressional representative, I mean the Architect of the Capitol and President Bush's man, John Parsons, who says that the comprehensive plan is a legally binding and enforceable statement of public policy.

Mr. **Dixon**. You have made that point.

Mr. **Frain**. They are not doing the job that they—if you could say something to them or perhaps to the Architect of the Capitol, say, get on the job, and do something about Reed-Cooke where he sat around for 4 years without doing anything. We have a note from Betty Ann Kane's testimony in our statement in which she says that they didn't provide any parking study or any housing study or anything else.

Four years, that is an incredible—you know, when they are in there protecting the Federal interests, by heavens, you know, they grab for everything.

But when it comes to the District interests and the District concerns, they don't do anything.

Mr. **Dixon**. But there are three other votes on the commission. Why don't they do something?

Mr. **Frain**. Please, Mr. Chairman, don't say why don't they? Why don't you, or why doesn't Congress say to their representative that the comprehensive plan and its parking provisions have to be looked at, have to be obeyed?

You know, we just want some help from the Federal interests that has protected their interests and sat silently by and voted without, without reflecting the concern of the District's citizens.

Thank you, sir.

Mr. **Dixon**. All right, Mr. Frain.

Mrs. **Dematatis**. Do you have any suggestions to us, Mr. Chairman?

Mr. **Dixon**. Not at this point. I am going to try to check into it and start with the City Council member for that area, and then try to find out the status of that property, and the status of——

Mr. **Frain**. You have got more Federal money in the community park than you put in those fences, a lot more money.

Mr. **Dixon**. This is not what I perceived Congress' role to be, and I have been trying——

Mr. **Frain**. I understand. You tell us about home rule, but you are in a soup with regard to the fences because you want it kept up.

What you are saying, if I understand it, and I have to put it very plain language, don't do as I do, do as I say.

ELLINGTON BRIDGE SAFETY BARRIERS

Mr. **Dixon**. Mr. Frain, I appreciate your interest. We get into this dialog every year. You don't know what the committee's intent—let me ask you what is the language that they were arguing about here today regarding the Ellington Bridge? What is the language? Tell me what the language is.

Mr. **Frain**. Well, let me say, I have here a statement from David Clarke, and I want to submit them for the record and from Betty Ann Kane.

Mr. **Dixon**. I am saying you are telling me what our motives are in the Ellington Bridge.

Mr. **Frain**. I am not saying that. Let me say, I was on the original lawsuit on the Ellington Bridge. I was, with Joe Butler——

Mr. **Dixon**. That was 1985.

Mr. **Frain**. Yes; and we asked them to go back to establish a routine to go back and have a proper hearing, and that is what the court said.

Ronald P. Wertheim was the judge. And we are—we wanted to put vendors on the bridge. We wanted—on the bridges like they do in Europe to try to prevent suicides rather than fences. We wanted hot lines. Put the vendors over there, we wanted them to be given some funds if they saved somebody's life.

Mr. **Dixon**. Mr. Frain, I am going to check into those issues. I thought maybe directing you to the City Council member would help, and I was just trying to evaluate whether anything is moving.

I am going to check with them. And then I will independently check on this gully property and the occupancy permit for the two garages.

That is about as far as I can——

Mr. **Frain**. I think what we also need is some concern about these two garages in Reed-Cooke where Federal representatives have failed, over a period of 4 years, to pay any attention to the parking provisions of the comprehensive plan, which cover the whole city.

Mr. **Dixon**. I am going to talk to our two representatives to see what they are doing.

Mr. **Frain**. God bless you.

Mrs. **Rivas**. Will we have any answer about whether——

Mr. **Frain**. He just said, he will get back to us.

Mr. **Dixon**. No; but I want to make sure what you think. Answer about what?

Mrs. **Rivas**. About whether the government has some power to help us with the parking situation.

Mr. **Dixon**. As far as the gully near the park? Yes; I am going to find out the status of that land.

Mrs. **Rivas**. The status, yes.

Mr. **Dixon**. Yes; I mean, who owns the land, is parking feasible, and that kind of thing.

Mrs. **Rivas**. The Smithsonian Museum owns part of it.

Mr. **Frain**. No; I don't think so.

Mr. **Dixon**. Well, I am going to find out.

Mrs. **Rivas**. Thank you.

Mr. **Dixon**. Thank you for coming today. It's nice seeing you.

Mr. Frain, we will see you next year, I am sure.

Mr. **Frain**. Well, it's been a long time coming. But this was a very successful morning.

Thank you very much.

[The statement follows:]

STATEMENT OF GEORGE FRAIN

Chairman Dixon and Members of the Appropriations Subcommittees:

I am George Frain, I am a D. C. resident, I live at 1789 Lanier Place, N.W. in the Adams Morgan area where I've lived since 1950.

I testify today at the request of our president, Mrs. Hilda Rivas, co-owner of the Churreria Madrid restaurant. She is a leader in the city's Hispanic community. She is here today and will testify.

I will take up the parking provisions in the city's Comprehensive Plan which have been ignored, taxes, and the ANCs which are being given more and more power with no training, no guidance, no tests of knowledge of city laws, and no experience in business, on which they decide, and they get more than $1 million in tax funds and a blank check from the Congress.

PARKING -WASHINGTON TIMES REPORTS CONGRESS HAS 10,000 PARKING SPACES WHICH ARE FREE AND SUBSIDIZED BY FEDERAL AND D.C. TAXES

We include as part of our testimony today a report in the Washington Times (May 25, 1990) with a map showing restricted city streets for Congressional parking, and the Congressional garages. The Washington Times report states that: (all of this is free parking)

> "More than 10,000 spaces are reserved throughout the Capitol grounds for the members of Congress, their staffs and others-- from journalists to police who work there regularly. Such parking is on lots, streets and in garages."

The COMPREHENSIVE PLAN of the District of Columbia, was mandated by Congress, but its parking provisions are being ignored by the Architect of the Capitol, an employee of Congress, and by the representative of the White House who is employed by the National Park Service, both of whom sit and vote on the D. C. Zoning Commission by Act of Congress which also funds it. YES,the Comprehensive Plan is recognized by these top Federal officials as a "legally binding statement of public policy" but they ignore its parking sections.

These high Federal officials are not entitled to pick and choose which provisions of the Comprehensive Plan they will comply with, and which of its provisions they are free to ignore. That is not the way the Comprehensive Plan and other "legally binding statements of public policy"work.

Last year, we got a stern lecture by the chairman of this committee when we asked for help. We were told to go back and talk to our ward representative. But who did Congress talk to to get its 10,000 free parking spaces, and the nice thing about these 10,000 parking spaces is that they are all subsidized by taxpayers.

And who did the Capitol Architect, and the White House representative,both sit on the D. C. Zoning Commission,talk to who advised them they didn't have to comply with the Comprehensive Plan's "legally binding" provisions on parking for D. C.'s ordinary people who are seeking to have metered parking, not free parking? Home Rule ought to work for everyone, not just for some lucky few. And we have a troubled Mayor who believes Home Rule is to help the few lucky ones who are close to him.

PARKING I - COMPREHENSIVE PLAN PROVISIONS IGNORED BY HIGH FEDERAL OFFICIALS & CONGRESS

> "Sec. 504(3) Encourage adequate short-term, on-and off-street parking to meet the needs of increased retail development at designated locations.
>
> "Sec. 504(6) Encourage the supply and management of public parking in commercial areas to afford priority to customers and others on business errands for available off-street and curb parking spaces, and discourage the use of these spaces by all-day parkers, including establishment employees."

It is clear that the free parking Congress has provided for its own use, and for city employees at the following sites do not implement Sections "504(3) and 504(6) of the Comprehensive Plan:

a. See attached Washington Times report and map (May 25, 1990) for Congressional parking locations.
b. The Reeves Center municipal building at 2000 14th Street, N.W.
c. The Martin Luther King Library at 9th and G Streets, N.W.
d. The new District Police headquarters buildings throughout the city.

Of course, the 10,000 parking spaces Congress in its wisdom provides free to its members, their staffs "and others-- from journalists to police"are identical to the "parking perks" enjoyed by Soviet leader Mikhail Gorbachev and his party heads.

How is it in the interest of the Congress and President Bush to have its representatives on the D. C. Zoning Commission ignore the vital parking provisions in the Comprehensive Plan? And how does it help the Congress of the United States to have them ignored?

The Washington Post (June 9, 1990) reported that John Parsons, the White House and National Park Service representative on the D. C. Zoning Commission, noted at an important Zoning Commission decision that the city's COMPREHENSIVE PLAN is "a legally binding statement of public policy". We quote:

> "John Parsons said the District's Comprehensive Plan (is) a legally binding statement of public policy."

Despite the "legally binding" nature of the Comprehensive Plan, every member of the D. C. Zoning Commission including its public members appointed by the D. C. Government, and the top Federal officials, Mr. Parsons and the Architect of the Capitol, have consistently and totally ignored its parking provisions set out in Sections 504(3) and 504(6). Why were they ignored and why didn't Congress protest this?

Frankly, some of the members of the 18th and Columbia Road Business Association who fought and bled in World War II and in subsequent campaigns of our nation overseas to protect the rights, including property rights, of people cannot understand the prevailing view: that they can be taxed to provide parking for some people while, at the same time, they are barred from parking in those protected sites and garages. These veterans think Congressional parking "perks" are like Mikhail Gorbachev's parking "perks".

PARKING II TESTIMONY OF D.C. COUNCILMEMBER BETTY ANN KANE TO D.C. ZONING COMMISSION

We are shocked that the D. C. Zoning Commission's members, including its top Federal officials, would proceed with rezoning the Reed-Cooke area without (1) a parking and traffic study, and (2) a specific housing strategy which would effectively prevent the displacement of low and moderate income households.

City Councilmember Betty Ann Kane, who is running for Congressman Walter Fauntroy's seat and may soon join you, pointed to the Reed-Cooke rezoning and its connection with the Comprehensive Plan in her brilliant and highly critical testimony to the D. C. Zoning Commission on April 27, 1989 at its hearing on the Reed-Cooke area of Adams Morgan. At that time, the D. C. Zoning Commission had already ruled on more than half of the Reed-Cooke area in Zoning Case No. 86-12 in 1987, two years earlier.

We include her testimony as it was published at her request in The InTowner (July, 1989). The InTowner is a highly-regarded monthly news journal which is circulated and read by 90,000 people in the Dupont Circle-Connecticut Avenue-Adams Morgan areas of this city.

> "In closing, I would like to point out what I consider an unfortunate and alarming trend with regard to major neighborhood (such as the Reed-Cooke case) map amendment cases brought forward for the purpose of making the District's zoning not inconsistent with the Comprehensive Plan.
>
> "Because of the narrow streets and complex street pattern of the neighborhood, the parking and traffic impact of potential new development is a major concern. What does the Office of Planning provide to the (Zoning) Commission to guide it in its deliberations? Essentially, nothing! Neither the Office of Planning nor the Department of Public Works prepared a parking and traffic study."

What possible justification does the D. C. Zoning Commission and its top Federal officials, and the public members appointed by the D. C. Government, including its chairman, Tersh Boasberg, an attorney, have for proceeding with the rezoning/downzoning of the Reed-Cooke area in view of the fact that it has not been provided with a "parking and traffic study"?

Nor was the D. C. Zoning Commission provided with a "specific housing strategy", even though displacement of low and moderate income households in Reed-Cooke is, as stated by Councilmember Betty Ann Kane, "another major concern in the neighborhood."

Already, houses in the Reed-Cooke area, as a result of its rezoning/down-zoning to residential, have skyrocketed to $300,000/$500,000 from their former $20,000 price. Some people have bought at the $20,000 price and have sold at ten times their original cost

We hope you will agree that these high prices do not make a convincing case that low-and moderate-income households in Reed-Cooke are not already being displaced. Instead, they point to growing displacement as the result of rezoning to residential.

Two distinguished witnesses, Walter Lewis, for many years chairman of the D. C. Zoning Commission, and former head of the Department of Architecture and Planning at Howard University, and Professor Jerome Lindsey, expert witness, from Howard U's very great Department of Architecture, warned the D. C. Zoning Commission that rezoning/down-zoning of the Reed-Cooke area (see their testimony in Zoning Case 86-12) to residential would hasten the displacement of low-and moderate-income families from this core area, and that such rezoning/downzoning would be a bad mistake. They were right.

Rezoning is notorious in Washington, D. C. for displacement of 23,000 people and 800 small businesses from the Southwest Urban Renewal Project Area. 70 percent of the 23,000 displaced people were low-income Black families. Poor families and neighborhood businesses have been displaced by rezoning in the Downtown Big Business area, and the West End where there are now four luxury hotels and two huge office buildings, one of which was bought by a Japanese investor for $80 million.

Isn't it high time Congress and the White House "displaced" their representatives on the D. C. Zoning Commission with people who are able to discern that the Comprehensive Plan is a "legally binding statement of public policy", and willing and capable of complying with it, and who don't think that it is perfectly OK to displace low-and moderate-income households and neighborhood businesses with huge buildings for sale to foreign investors?

PARKING III - REP. FRANK WOLF'S REQUEST FOR AN AUDIT OF D.C. PARKING REVENUES

We include in our testimony a letter Representative Frank Wolf (R-Va.) wrote Mayor Marion Barry on September 16, 1987 requesting an audit of the District's parking revenues. We quote this paragraph from Congressman Wolf's letter:

> "although the parking revenues collected in the District of Columbia are included in the overall budget, the program itself has never been audited. In light of the spiraling revenues the District of Columbia is receiving from its parking operations, I believe an audit is essential."

We fully support Congressman Wolf's audit request, and we believe that an audit is long overdue. We urge you to request the D.C. Auditor to audit the city's parking revenues as soon as possible.

We include a reply by the D. C. Auditor, Otis Troupe, to Congressman Wolf's letter to Mayor Barry. We also include a report of the Daily Washington Law Reporter which shows that the lawsuit Mr. Troupe cited for not auditing the city's parking revenues was dismissed by the D. C. Court of Appeals on March 30, 1990. So there is clearly no justification for Mr. Troupe not making an audit of the city's parking revenues at this time.

You surely will find of great interest a column by Bill Hogan, senior editor of Regardie's,(October 1989),which shows that the District is currently collecting "more than $60 million--most of it pure profit--through various 'parking-related programs.'" Here is a key paragraph from Bill Hogan's timely and informative column:

> "Thanks in large measure to their vigilance, last year the District raked in more than $60 million--most of it pure profit--through various"parking-related programs". Chief among them is the profligate writing of parking tickets, which netted the city nearly $39 million. Customer deposits in Washington's 14,000-plus parking meters yielded $10 million, and the District's 12-percent parking tax generated $13 million. The rest of the city's parking-related revenue is derived mainly from towing, booting, and impoundment fees. (In an exhaustive inventory of its own accomplishments, the Bureau of Parking Services recently noted that a two-man boot crew can generate up to $1.2 million a year in 'potential revenue.')
>
> "The District,however, has never seen fit to use any of its parking-related revenues to provide parking. For reasons so tortuous as to be virtually inexplicable, all of the money eventually winds up in the maw of the Washington Metropolitan Area Transit Authority, which operates the Metrorail and Metrobus systems."(Emphasis supplied).
>
> Congress adopted legislation to divert all parking revenues to Metrorail/Metrobus.

PARKING IV - CONGRESS PROTECTS DOWNTOWN RESTAURANTS FROM PARKING TICKETS

When our neighborhood business owners go downtown at night to eat in a restaurant they are struck by the absense of police and parking enforcers from the D. C. Department of Public Works. Why is this? We have made some inquiries and were told that the powerful downtown restaurant owners have good connections with powerful members of Congress who have, in ways known to Congress and available only to powerful Congress members, got the city to end ticketing there.

But what a difference that a few blocks make. In Adams Morgan the ticket writers are busy up to midnight writing tickets on the small ethnic restaurants diners. We are told to talk to our representative, but he lacks the power of leading Members of Congress.

PARKING IV WRC-TV 4 SAYS D.C. TARGETS MD. & VA. CARS WHICH GET 71% OF TICKETS

D.C. SALES TAX COLLECTIONS OFF BY $13.4 MILLION DUE TO D.C.'S AGGRESSIVE PARKING POLICY

WRC-TV 4 on May 7 through May 10 aired four reports on parking by its investigative reporter Tom Sherwood. This is the first study in depth of the city's parking program. We submit his reports as part of our testimony for the record. We think you, the Senate and House Appropriations subcommittees on the D. C. Budget for FY 1991, ought to know what motorists in the DC-MD-VA area are getting for the $60 million in parking revenues -- as well as what they are not getting:

May 8, 1991 from WRC-TV 4 broadcast at 6:30 p.m.--

"SHERWOOD: Do D.C. booters target out-of-state plates? You bet. Seventy-one percent of the cars on the hit list are from Maryland and Virginia.

"Some comparisons: Philadelphia booted 4300 cars last year. Boston, 11,000. The District, a smaller city, booted 23,000.

"Those other cities aren't so tough about when you get the boot. In Philadelphia, the boot squads don't even operate in residential zones, and it takes six unpaid parking tickets before you get the boot. In Boston, it takes five, and you get a notice in the mail before you get the boot."

WE TALKED TO OUR REPRESENTATIVE FRANK SMITH AS YOU SUGGESTED A YEAR AGO

City Councilmember Frank Smith, our representative whom you told us last year to "talk to", told us on Friday, June 8, that he had just honeymooned in Paris, France, and that they take off all controls at dusk and let people park where they want to in order to encourage tourists to visit Paris.

Of course, Paris is a great tourist town, people travel from all over the world to visit Paris. Paris has far more tourist experience than anyone else has. People get costly parking fines when they come to D.C. from all over the world. For sure, Congress and the D. C. Government could take a lesson from the steps that Paris is taking to encourage visitors to come to that great city.

Councilman Smith told us he is seriously thinking of introducing legislation to remove the parking enforcers of the District of Columbia, and turn that entire task over to the Metropolitan Police Department under Police Chief Isaac Fulwood. We think this is a great and constructive suggestion. We urge you to support our Mr. Smith and his interesting parking plan and help him implement it as soon as possible.

The tourist industry is the one great industry of this Nation's Capital city, and it doesn't make sense to have an aggressive high-priced ticketing policy, which turns a mean and glowering face to tourists and makes them feel like they are unwanted except for their contribution to parking revenues.

The Washington Times reported recently that the sales taxes are off by $13.4 million.

The city's very harsh parking policy is surely partly to blame for this fall-off in sales tax collections.

Compared to D.C.'s aggressive parking policy the suburbs treat customers and visitors with kid-gloves, they provide garages and surface parking lots, and shopping malls. The shopping malls are free. No wonder, then, that so many people shop in the suburbs and never come into the Nation's Capital. What is Congress doing in this situation? Essentially, nothing! It says Home Rule will fix everything!

This city's parking policies, if continued, will kill the tourist industry.

HIGH PROPERTY TAXES DEADLY FOR NEIGHBORHOOD BUSINESSES IN THE DISTRICT OF COLUMBIA

Our experience is that in this city neighborhood businesses are faced with much higher taxes and an anti-business climate unlike neighborhood businesses in the suburbs where taxes are lower, and business is encouraged and assisted.

The D. C. government has adamantly refused to provide parking in the neighborhoods, and has insisted on high taxes which are deadly to neighborhood businesses.

Property taxes in some inner city neighborhoods are up over 400 percent since 1980, and in Adams Morgan they have risen 100 percent or more in a single year. For example, 2457 18th Street, in the heart of the 18th and Columbia Road business sector, experienced the following increases in assessed value: 1983 $226,500; 1985 $300,000; 1988 $630,000; 1989 $1,025,000.

The city's taxing policy, as demonstrated in this case, is destroying the ability of neighborhood business owners to plan their future. This escalation means the loss of employees, and it also means being forced out of the city to Maryland or Virginia where realistic and sound tax policies prevail.

Neighborhood businesses cannot absorb property taxes soaring to over $1,000 a month for C-2B townhouse space along 18th Street and Columbia Road in Adams Morgan.

For the argument explaining that property tax escalation is offset by equity increases, there are these countering arguments: first, many of the commercial properties are tenanted and in the vast majority of commercial leases the tenant is responsible for tax payments.

Secondly, if a neighborhood business person owns the property he or she is sometimes getting an increase in value through ownership rather than in running a day-to-day neighborhood business. This is what is taking place in Adams Morgan, powerful banks -- we have six banks where we formerly had two -- and chain stores, and we now have several of these, replace vital services such as locksmiths, shoe repair shops, and appliance stores.

This is not good for our area nor is it good for other areas. Since the D. C. government has put in place the highest property taxes in the metropolitan area Congress should take steps to help neighborhood businesses before they are forced out.

We believe there is a better way, and we urge Congress to look at what some states are doing and what the suburban jurisdictions of Maryland and Virginia are doing.

Some states are putting a cap on the amount which taxes can rise in any one year, and they have taken this step because taxes had gone up by 100 percent or more a year, as they have in D. C., or by other large amounts. Such caps are often set at 5 percent.

The Washington Post (August 24, 1982) reported a decision by the Maryland Court of Appeals which is of interest to all neighborhood businesses, here is a paragraph from the report:

> "The Maryland Court of Appeals has ruled that state tax officials must assess commercial buildings on the basis of the rent they actually collect, not on the basis of how much they theoretically could charge in the market... The (D.C.) method of assessment has been challenged successfully in New York and Michigan."

This Maryland Court of Appeals decision was made in the case of "Supervisor of Assessments of Allegany County v. The ORT Children Trust Four", and was filed on August 11, 1982. This method should be adopted in the District of Columbia.

The D. C. property tax rate of $2.03 is too high for neighborhood businesses to survive. Properties zoned C-1, C-2-A, and C-2-B in neighborhood business areas should not be taxed at the same rate as downtown office buildings or New York Avenue heavy industrial properties.

A tax rate for neighborhood business properties at the residential investor rate of $1.54 would ease greatly the over-taxation of neighborhood businesses.

Many neighborhood businesses have fled from the District of Columbia to the suburbs, finding that they can do business there when they can't in this city.

Perhaps the most instructive thing the Maryland and Virginia suburbs have to teach D. C. government is that they show that they make more by taxing less, and by providing off-street, low-cost municipal parking.

Congress could help most by calling attention to the support which other cities counties and states give to neighborhood businesses.

Many U.S. Presidents have called neighborhood businesses the backbone of our country. Don't break the nation's backbone businesses by high taxes and no municipal off-street parking.

We need not remind Congress that President Bush's fiscal 1991 budget contains enterprise zone legislation. Clearly President Bush is persuaded that it makes more sense to create jobs than pour money into welfare programs, not to mention the pride and sense of achievement people feel when engaged in productive work.

In a very real sense, inner city neighborhood business areas are self-built enterprise zones.

The Adams Morgan neighborhood business area according to one study has some 500 businesses and 5,000 employes, it is an enterprise zone constructed and made successful by the hard work and vision of its multi-ethnic business people who would rather work long hours than receive welfare payments.

What it needs from government is the municipal parking which Congress has denied Adams Morgan and other city neighborhood business areas such as the H Street NE area, the Georgia Avenue-7 Street area & the Georgetown area for many years when Congressional committees were headed by Members of Congress who were close to the city's powerful parking barons. Now, Congress ignores the city's parking provisions in the Comprehensive Plan and gives us a speech about how wonderful Home Rule is.

Obviously, if Congress demanded and got parking for its members, it should be helpful in providing parking for neighborhood businesses city-wide.

And, as for the city's high tax rates, Congress could at least recommend lower taxes such as Maryland and Virginia provide to help neighborhood businesses survive.

Such helpful steps would be far cheaper than welfare if the neighborhood businesses fail due to Congressional inaction, and a city out of control because of the troubles Mayor Barry is in. We include as part of our remarks a report of the Washington Times (August 10, 1989) on a study of rents in the District of Columbia and other cities by the firm of Spaulding & Slye/Colliers International, a Washington D. C.-based firm headed by Thomas G. Owens, an outstanding local businessman.

ADVISORY NEIGHBORHOOD COMMISSIONS ESTABLISHED BY CONGRESS, WITHOUT HEARINGS, BY A FLOOR AMENDMENT ARE OFTEN UNFAIR TO NEIGHBORHOOD ETHNIC RESTAURANTS AND HOTELS

The Adams Morgan Advirosy Neighborhood Commission (ANC-1C) is often unfair in its treatment of neighborhood businesses. For example, it held up for five months the liquor license applications of two very small Ethiopian-owned restaurants, the Sheba, and the EMYE, located at 2224 and 2226 18th Street, N.W. ANC-1C's chairperson wrote the ABC Board these two restaurants were strewing beer and liquor bottles on the school grounds of the nearby Reed School, a statement without any foundation in fact, and also opposed the liquor licenses without which the Sheba and Emye restaurants could not have survived by successfully appealing to the D. C. School Board to oppose the licenses.

The restaurant owners had to retain an attorney at great expense to present their case to the ABC Board, to the D. C. School Board, and to the Adams Morgan ANC-1C. Their attorney, Elmer Douglass Ellis, (Phone: (202) 347-5664) finally was able to settle the case. One estimate by a person knowledgeable about the case was that it cost the Sheba and Emye restaurants about $5,000 each due to the five months delay in getting their liquor licenses. Ted Haile and Minnie Desta, the owners, are fine upstanding people.

Other ANCs are now engaged, as is the Adams Morgan ANC-1C, in putting into place a moratorium on both old and new restaurants. Already a 3-year moratorium on restaurants in the Dupont Circle and the nearby 17th Street restaurant row from Massachusetts Avenue to Florida Avenue has been established. The ANCs disregard the contribution of restaurants.

The restaurant industry which serves tourists, (the city's biggest industry is the tourist industry) the taxes restaurants pay, and the employment they provide, is ignored by the ANC commissioners whom the Congress foisted on the city's restaurants when it adopted the ANC amendment to the Home Rule Act without prior hearings in committees on this flawed legislative proposal. Congress gives ANCs a blank check with no guidelines, but insists on high standards for its employees, to protect Federal interests.

Our vice president, Herbert W. White, tells us he pays the city and Federal government $180,000 in taxes, he pays workers compensation, he employs sixty (60) people. Multiply that by the sixty-seven restaurants in Adams Morgan and you get some of their taxes & employment they provide, and what their loss would mean to the city and its citizens. ANC commissioners rarely have business experience or acumen to decide on business matters.

The Adams Morgan ANC-1C, still upset by its failure to deny liquor licenses to the Sheba and Emye Ethiopian restaurants, is now demanding that every restaurant, prior to getting ANC-1C approval of its liquor license, sign a form with these provisions: (a) "There shall be no live music"; and (b) "Further, the business hopes to sustain itself by catering to residents of the Adams-Morgan and surrounding neighborhoods and as such sees no need to obtain parking at this time." We include as part of our testimony a copy of this infamous and illegal Advisory Neighborhood Commission 1-C form. It is illegal in that by demanding that the world-famous ethnic restaurants in Adams Morgan reject any and all effort to get relief from the parking crisis by working to have the Federal and District officials and the D. C. Zoning Commission implement the parking provisions of the Comprehensive Plan, if they don't want ANC-1C to oppose their liquor license applications. Roberta Flack, the world-famous artist couldn't play in Adams Morgan restaurants if ANC-1C has its way.

We submit as part of our testimony a Washington Post editorial and report on the demands by residents, with support of "Advisory Neighborhood Commission 3-E", who got spa privileges and parking for 150 nearby residents at the Embassy Suites Hotel at 5335 Wisconsin Avenue, N.W. We urge you to carefully heed the demand in the Washington Post editorial that "the business cries out for some tightening of the legal language" and that you provide such "tightening of the legal language" when you vote the ANCs their annual appropriation in the FY 1991 D.C. budget. You should also denounce such "hostage" demands.

Thank you for your consideration.

LETTER FROM FRANK R. WOLF, MEMBER OF CONGRESS

September 16, 1987

Honorable Marion Barry
Mayor
613 G Street, N.W.
Washington, D.C. 20001

Dear Mayor Barry:

Attached is a letter from a constituent of mine, whose concerns about parking problems in the District I brought to your attention over a year ago. You responded that you were unable to comment because the matter was in litigation.

The Neighborhood Municipal Off-Street Parking Facilities Act was passed by the D.C. Council in 1980. However, the bill has never been implemented and this may be an issue that you would want to address.

Ms. Elaine Middleman has now brought to my attention the fact that although the parking revenues collected in the District of Columbia are included in the overall budget, the program itself has never been audited. In light of the spiraling revenues the District of Columbia is receiving from its parking operations, I believe an audit is essential.

I would appreciate a response regarding Ms. Middleman's earlier inquiry regarding the progress the District has made in implementing this act, and a response regarding my constituent's suggestion of an audit of parking operations.

Sincerely,

Frank R. Wolf
Member of Congress

LETTER FROM OTIS H. TROUPE, AUDITOR, DISTRICT OF COLUMBIA

October 30, 1987

The Honorable Frank Wolf
Congress of the United States
House of Representatives
130 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Wolf:

I am in receipt of a copy of your letter to Mayor Marion Barry, dated September 16, 1987 concerning off-street parking facilities. In your letter you stated that Ms. Elaine Mittleman brought to your attention that parking revenues, collected in the District of Columbia, are included in the overall budget, but that the program itself has never been audited. You further stated that you believe an audit is essential.

The Auditor has been informed by the D.C. Corporation Counsel, Appellate Section that a law-suit brought against the District Government and Mayor Marion Barry, to provide off-street parking, is on appeal by Mr. George Frain, secretary of the 18th & Columbia Road Business Association. We understand from the Corporation Counsel's office that the original law-suit was dismissed by the D.C. Superior Court in June, 1987 but that Mr. Frain, and others, filed a document statement on June 26, 1987 appealing the decision. The Corporation Counsel's office indicated that it is waiting to receive further instructions from the Court.

It is the Auditor's opinion that since this case is still in litigation, it would not be prudent to initiate an audit of parking revenues collected by the District, at this time. I believe the audit process should not infringe in any way upon the litigation process before the Court. Once a final decision of the law-suit is rendered, the District of Columbia Auditor will be more than willing to conduct an audit review of the District's parking revenues if necessary.

Respectfully,

Otis H. Troupe
District of Columbia Auditor

City Council Comments

By Betty Ann Kane
Member, at-large

Statement on Reed-Cooke Rezoning,
April 27, 1989

I have appeared before this body [the DC Zoning Commission] several times before to urge the Office of Planning to work with the Reed-Cooke community to forge a plan for its future and to move as quickly as possible to complete the rezoning of that portion of the neighborhood zoned C-M-2. I am pleased that the public hearings for Phase II of the case are now underway. I would encourage you to refer frequently when listening to the testimony to the three policies specifically enacted by the Council in the Comprehensive Plan for the Reed-Cooke Special Treatment Area:

- Protect current housing in the area, and provide for the development of new housing.
- Maintain heights and densities at appropriate levels.
- Encourage small-scale business development that will not adversely affect the residential community.

I believe that in Phase II, just as was the case in Phase I, that the principal objective of the case before you should be the enhancement of the residential character of the Reed-Cooke neighborhood. Because of the neighborhood's increasing congestion and inefficient street network, I would caution you to be conservative in your determination of the maximum density that is desirable for the Reed-Cooke neighborhood, particularly in terms of commercial density.

In closing, I would like to point out what I consider an unfortunate and alarming trend with regard to major neighborhood (such as the Reed-Cooke case) and multi-neighborhood (such as 14th and U Street case which has recently been heard by the Zoning Commission) map amendment cases brought forward for the purpose of making the District's zoning not inconsistent with the Comprehensive Plan. The necessary technical planning analysis is not being done and the community—both residential and business—are not being educated, consulted with, and listened to in an orderly fashion.

Among the critical issues involved with this case, I would like to cite two examples of how more thorough work on the part of the Office of Planning and other Executive Branch agencies might result in a more successful outcome for the neighborhood:

- Because of the narrow streets and complex street pattern of the neighborhood, the parking and traffic impact of potential new development is a major concern. What does the Office of Planning provide to the Commission to guide it in its deliberations? Essentially, nothing! Neither the Office of Planning nor the Department of Public Works prepared a parking and traffic study.
- Affordable housing and potential displacement of low and moderate income households is another major concern in the neighborhood. This should have been addressed in a neighborhood plan for Reed-Cooke that preceded both Zoning Commission cases. After completing such a planning exercise, including the development of a specific housing strategy for the neighborhood, then the map amendment cases would constitute part of the overall implementation process.

[From the Washington Times, Fri., May 25, 1990]

PARKING ON THE HILL--A DRIVER'S NIGHTMARE

By John E. Smith
THE WASHINGTON TIMES

For more than a half-hour, Bill Wilson drove around Capitol Hill trying to find a spot to park so he could pick up his family from their tour of the Capitol.

Afraid he would be unable to locate his wife and daughters, the Pennsylvania man finally stopped in a parking-by-permit-only place. Twenty minutes later, he found his family — and a ticket on his car.

"Everywhere I went, I saw signs saying, 'No Parking' or 'Permit Parking,' " Mr. Wilson said. "I didn't know what else to do. I guess I'll have to pay for my mistake."

Parking on and around Capitol Hill long has been a source of frustration. And the problem seems to be getting worse — with parking tickets increasingly — as Congress tries to reserve more parking for the exclusive use of its staff.

"The city has been concerned that they keep expanding and keep expanding, and they displace the parking for the people who live in these neighborhoods," said Luis Burguillo, the Barry administration's lobbyist on Capitol Hill.

"People are losing places to park, it's a loss of revenue, and it seems to be a continuing encroachment by the feds [on District territory]," he said.

But congressional officials said they have made relatively few expansions to their parking areas, relying instead on innovative ways to fit the cars of the burgeoning legislative work force onto property they already control.

They also said they are experimenting with such "get-tough" measures as towing to prevent people without permits from habitually parking in reserved areas. That by itself will help reduce congressional demand for more areas, staffers said.

More than 10,000 spaces are reserved throughout the Capitol grounds for members of Congress and their staffs, as well as for the police, journalists and others who work there. Reserved parking is in garages and on lots, and on streets and in courtyards from Union Station to the Southeast-Southwest Freeway and from Second Street NE to the Mall.

Parking also is set aside beyond the Capitol grounds for lawmakers on the go. Washington National Airport reserves 124 spaces in a parking lot adjacent to its main terminal and in sections of four other lots for federal lawmakers, Supreme Court justices and diplomats, while Washington Dulles International Airport sets aside more than 50 spaces.

Officials said free parking at the airports for members of Congress has been standard since the facilities opened. "It's something that was carried on, just as there are perks for people all over town," said Dave Hess, spokesman for the Metropolitan Washington Airports Authority.

While the parking supply on Capitol Hill has risen gradually over the past several years, ongoing construction in the area changes the amount available at any given time. Highway repair has temporarily eliminated parking in the garage beneath the Southeast-Southwest Freeway, forcing federal parking authorities to find alternative space.

Construction of an office building for the judiciary took over a parking lot for congressional staff next to Union Station. Although the building will have an underground garage when it is completed in two years, government officials had to temporarily replace that parking by renting 500 spaces in the Union Station garage.

That arrangement involved more than just renting a parking area, officials said. To allow its own police to patrol the area, Congress expanded the jurisdiction of the Capitol Police.

"There is a concern with the amount of crime at Union Station," said Officer Dan Nichols, Capitol Police spokesman. "They wanted us to be allowed to patrol there."

But that measure has angered some District leaders, who said they viewed the plan as an encroachment on their turf.

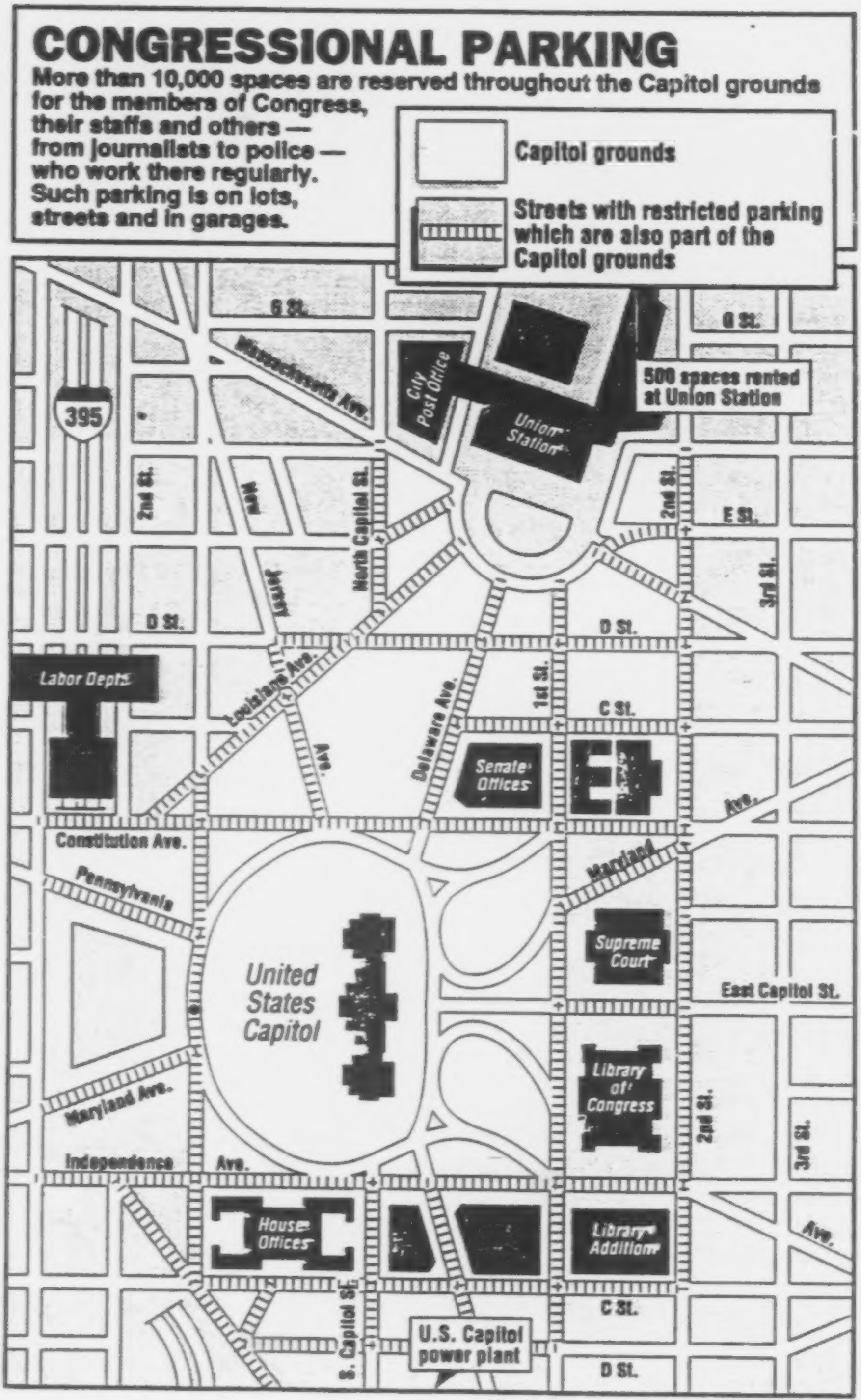
Because of limited space, federal parking authorities have had to be creative. They increased parking space on Pennsylvania Avenue NW between First and Third streets by changing the layout of the lot and allowing parking in the median strip.

"We went from 60 to 240 [spaces] without doing anything but redrawing a couple of lines," said G.C. "Pete" O'Brien, director of the Senate Parking Office.

In recent months, House staffers also have tried — with varying degrees of success — to persuade the city government to allow more streets to be reserved for congressional parking. Two sections of street parking south of the Capitol recently were converted for congressional use, but the District denied a similar request along a part of South Capitol Street because of objections from community residents.

The city is considering reserved status for part of Washington Avenue SW (formerly Canal Street), but that would cost it money.

"The area on Canal Street is metered. If Congress takes over that street, we lose revenues," Mr. Burguillo said.



CONGRESSIONAL PARKING

More than 10,000 spaces are reserved throughout the Capitol grounds for the members of Congress, their staffs and others — from journalists to police — who work there regularly. Such parking is on lots, streets and in garages.

Capitol grounds
Streets with restricted parking which are also part of the Capitol grounds
G St.
Massachusetts Ave.
City Post Office
Union Station
500 spaces rented at Union Station
395
2nd St.
New Jersey
North Capitol St.
E St.
3rd St.
D St.
Labor Dept.
Louisiana Ave.
Ave.
Delaware Ave.
1st St.
C St.
Senate Offices
Constitution Ave.
Pennsylvania
Maryland
Supreme Court
United States Capitol
East Capitol St.
Library of Congress
Maryland Ave.
Independence Ave.
House Offices
Library Addition
S. Capitol St.
U.S. Capitol power plant

Map by Paul Woodward / The Washington Times

[From Regardie's, Oct. 1989]

By Bill Hogan

No Parking, No Kidding. Sure, you can argue that the DC government is wretchedly inefficient, but to do so you've got to overlook the city's Bureau of Parking Services, which pursues miscreant motorists with the kind of undisguised zeal that's all but unknown elsewhere in the municipal bureaucracy. Indeed, the bureau's omnipresent army of ticket writers, booters, and tow-truck commandos could turn the ghost of Benito Mussolini green with envy.

Thanks in large measure to their vigilance, last year the District of Columbia raked in more than $60 million—most of it pure profit—through various "parking-related programs." Chief among them is the profligate writing of parking tickets, which netted the city nearly $39 million. Customer deposits in Washington's 14,000-plus parking meters yielded $10 million, and the District's 12-percent parking tax generated $13 million. The rest of the city's parking-related revenue is derived mainly from towing, booting, and impoundment fees. (In an exhaustive inventory of its own accomplishments, the Bureau of Parking Services recently noted that a two-man boot crew can generate up to $1.2 million a year in "potential revenue.")

The District, however, has never seen fit to use any of its parking-related revenues to provide parking. For reasons so tortuous as to be virtually inexplicable, all of the money eventually winds up in the maw of the Washington Metropolitan Area Transit Authority, which operates the Metrorail and Metrobus systems.

As it turns out, the city has a way—but not the will—to provide off-street parking. Nine years ago, in an attempt to revitalize some of the city's older commercial areas (including Adams-Morgan, Anacostia, Georgetown, and the Georgia Avenue corridor), the DC Council passed the Neighborhood Municipal Off-Street Parking Facilities Act. The 1980 law was in reality an amendment to the DC Motor Vehicle Parking Facility Act of 1942, which *prevented* the city from building any parking lots and gave a small number of powerful parking barons—chiefly Dominic Antonelli and Leonard "Bud" Doggett—a virtual monopoly on the business. While in recent years other developers have muscled in (Oliver Carr Company, for instance, now operates 24 CarrPark garages), the city has simply ignored the 1980 law and refused to encroach on their concrete kingdom.

The DC Council now knows what everybody else knew all along: You can't beat City Hall.

Everybody, that is, but George Frain. Frain, the secretary of the 18th & Columbia Road Business Association, decided several years ago that he was tired of waiting for the DC government to do anything about the parking problem in Adams-Morgan. "The city writes parking tickets day and night," he says, "and this is killing small businesses in our area." He sought out Elaine Mittleman, a lawyer of inestimable tenacity, and in August 1986 they took the city to court.

The DC government gamely argued in Superior Court that the law merely directs, but does not require, the mayor to act. Judge Richard Salzman twice went along with this specious reasoning, but in August the DC Court of Appeals agreed to hear *Frain et al. v. DC*. As legal writing goes, Mittleman's brief is refreshingly blunt: "Appellants fervently hope that this litigation will put the District back on track, and even into the fast lane, of worrying about traffic safety and parking availability, rather than treating parking simply as a cash cow."

Washington's citizens and merchants aren't the only folks who have good reason to root for Frain and his 13 fellow plaintiffs. Before their lawsuit led city officials to order the Bureau of Parking Services to stop publishing an annual report, the agency had disclosed that more than two of every three parking tickets, and more than three of every four boots, are affixed to automobiles that are registered outside the District.

[From the Daily Washington Law Reporter, Wed., May 9, 1990]

D.C. Court of Appeals

APPELLATE PROCEDURE

NOTICE OF APPEAL

Appeal is dismissed where notice was filed five months after judgment against appellant.

FRAIN, ET AL. v. DISTRICT OF COLUMBIA, ET AL., D.C. App. No. 87-677, March 30, 1990. *Appeal dismissed* per Schwelb, J. (Rogers, C.J. and Terry, J. concur). *Elaine Mittleman* for appellants. *Edward E. Schwab* with *Herbert O. Reid, Sr.* and *Charles L. Reischel* for appellees. Trial Court—Salzman, J.

SCHWELB, J.: Appellants are residents of the Adams-Morgan area of northwest Washington. In 1986, claiming that existing parking facilities in their neighborhood were inadequate as a result of various alleged acts and omissions by the executive and legislative branches of the District of Columbia government, they brought this action in the Superior Court against the District and certain of its officials seeking declaratory and injunctive relief. They requested, among other things, that the Mayor be ordered to implement the Neighborhood Off-Street Parking Act, D.C. Code §§40-803 *et seq.* (1986 Repl.), which authorizes but does not require the Mayor to acquire land for off-street parking; that the District be compelled to expend for parking purposes at least 50% of revenues from "all parking matters"; that the court declare unconstitutional the Stable and Reliable Source of Revenue for WMATA Act, D.C. Code §1-2466 (1987), upon the ground, among others, that users of automobiles are denied equal protection by the use of parking revenues for the Metro system; and that District officials be precluded from "booting" automobiles for non-payment of parking tickets without prior notice to the owner. After some preliminary skirmishes, the trial court granted the defendants' motion for summary judgment, concluding that plaintiffs either lacked standing or were "wrong as a matter of law."

The function of the courts is to adjudicate rather than to legislate or to exercise executive responsibilities. We are impressed by the District's argument that most or all of appellants' complaints would be properly addressed to the legislative and executive branches of our government rather than to the judiciary. *See, e.g., Rizzo v. Goode*, 423 U.S. 362 (1976); *Iselin v. United States*, 270 U.S. 245, 251 (1926) (Brandeis, J.) ("[t]o supply omissions [in a statute] transcends the judicial function"). Appellants' standing to assert their claims is likewise questionable. *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95 (1983). We need not and indeed cannot decide the merits of appellants' contentions, however, because we are satisfied that this court lacks jurisdiction to entertain this appeal.

The notice of appeal in this case was filed almost five months after the trial court entered judgment against appellants, and no effective action was taken to toll the running of the 30-day period prescribed by D.C. App. R. 4(a)(1). We are unable to agree with appellants that they were lulled into inaction by any statement or act of the trial court, or that there is any basis here for invoking the "unique circumstances" exception articulated in *Thompson v. Immigration & Naturalization Service*, 375 U.S. 384 (1964) (*per curiam*), and other authorities discussed below. Accordingly, this appeal must be dismissed.

I

On January 17, 1987, Judge Richard S. Salzman signed an order granting summary judgment in favor of the District and its officials. Three days later, that order was entered on the docket. On January 29, 1987, asserting that she was forced to do so by the press of other litigation, counsel for appellants filed a motion for an extension of time until March 10, 1987 to submit what she characterized only as a "motion for reconsideration." The government filed no opposition to the motion for an extension. On February 18, 1987, twenty-nine days after the docketing of the judgment in the District's favor, Judge Shellie F. Bowers entered an order granting the motion for an extension as unopposed. This order was mailed to counsel on February 19, 1987, thirty days after the entry of summary judgment.

On March 9, 1987, again citing the burden of other litigation matters, appellants' attorney filed a motion to extend until April 6, 1987 the time for filing a motion for reconsideration. The trial judge did not act on the second motion. On April 6, 1987, appellants filed the anticipated motion for reconsideration of the order granting summary judgment. They contended that they had standing to bring the action, that the *Cokinos* decision cited by the judge was distinguishable, and that the judgment was unclear "in that it is not possible to determine which holdings apply to the various claims raised by plaintiffs."

On May 14, 1987, Judge Salzman issued an order which stated in pertinent part that

> the motion to reconsider is granted and on reconsideration, the award of summary judgment to defendants is granted for the reasons stated in the initial ruling.

A notice of appeal from the May 14, 1987 order was filed on June 11, 1987.

II

Our Rule 4(a)(1) provides that a notice of appeal in a civil case shall be filed within thirty days after the entry of judgment in the Superior Court. This time limit is mandatory and jurisdictional. *In re C.I.T.*, 369 A.2d 171, 172 (D.C. 1977); *Valentine v. Real Estate Comm'n*, 163 A.2d 554, 556 (D.C. 1960); *see* *also Browder v. Director, Illinois Dep't of Corrections,* 434 U.S. 257, 264 (1978). The notice of appeal in this case, as we have noted, was not filed within thirty days of the judgment.

Our Rule 4(a)(2) provides, however, that the running of the time for filing a notice of appeal is terminated as to all parties by the timely filing of any of the following motions:

> [f]or judgment notwithstanding the verdict; to amend or make additional findings of fact . . .; to vacate, alter or amend the order or judgment; for new trial; for reconsideration if authorized by the rules of the Superior Court; and any other motion seeking relief in the nature of the foregoing.

See generally Coleman v. Lee Washington Hauling Co., 388 A.2d 44, 45 (D.C. 1978).

In the motion for reconsideration which they belatedly filed in the trial court, appellants did not identify the specific Rule under which they were proceeding. Although litigants often style their requests to trial judges to take a second look at their contentions as "motions for reconsideration," the Superior Court's Civil Rules make no explicit provision for such a motion. *Cf. In re Alexander,* 428 A.2d 812, 815 (D.C. 1981), *cert. denied,* 454 U.S. 1149 (1982). Superior Court Civil Rule 59(e), however, authorizes the filing of a motion to alter or amend a judgment and specifies that such a motion must be filed within ten days after the entry of judgment. Civil Rule 60(b)(1) provides that the court may relieve a party from a final judgment on the grounds of mistake, inadvertence, surprise or excusable neglect.

In *Wallace v. Warehouse Employees Union No. 730,* 482 A.2d 801, 804 (D.C. 1984), this court explained that if

> the movant is requesting consideration of additional circumstances . . . the motion is properly considered under Rule 60(b), but if the movant is seeking relief from the adverse consequences of the original order on the basis of error of law, the motion is properly considered under Rule 59(e). *Coleman v. Lee Washington Hauling Co., supra* note 5, 388 A.2d at 46 & n.5 (citing 9 MOORE'S FEDERAL PRACTICE, ¶204.12[1] at 953); *Cohen v. Holmes,* 106 A.2d 147, 148 (D.C. 1954) (Rule 59(e) motion does not permit alteration of the judgment or order because of an improper factual basis).

In the present case, appellants' motion for reconsideration, although it was accompanied by a stack of newspaper clippings and letters to the editor bemoaning the parking situation, presented no new competent materials to the court for its consideration. * * * The essence of appellants' argument was that Judge Salzman's initial decision was incorrect and that he should reconsider it. This kind of motion is properly brought pursuant to Rule 59(e), and cannot be converted into a Rule 60(b)(1) motion in order to avoid the 10-day filing requirement of Rule 59(e). *D.D. v. M.T.,* 550 A.2d 37, 42 & n.5 (D.C. 1988). The nature of a motion is determined by the relief sought, not by its label or caption. *Wallace, supra,* 482 A.2d at 804. Accordingly, we conclude that appellants' motion for reconsideration was a motion to alter or amend the judgment pursuant to Rule 59(e).

As this court explained in *Wallace,* 482 A.2d at 803 n.5,

> [a] timely motion filed pursuant to Rule 59 tolls the time for appeal of the underlying judgment, *Coleman v. Lee Washington Hauling Co.,* 388 A.2d 44, 47 (D.C. 1978); a motion under Rule 60(b) does not, *Smith v. Canada,* 305 A.2d 521, 522 (D.C . 1973).

We must therefore determine whether the motion was timely and, if not, whether equitable considerations require us to treat it as though it were.

III

As we have noted above, Rule 59(e) requires that a motion to alter or amend be filed within ten days of the entry of judgment. Superior Court Civil Rule 6(b) provides that the court may not extend the time for taking any action under certain enumerated Rules, specifically including Rule 59(e), "except to the extent and under the conditions stated in them." Rule 59(e) contains no such exception. Accordingly, the 10-day period specified in Rule 59(e) cannot be extended.

Appellants' motion for reconsideration was filed 76 days after the entry of judgment. A literal reading of Rule 6(b) compels the conclusion that this was 66 days after the time to file such a motion had expired. This court's Rule 4(a)(2) provides that only the *timely* filing of a motion to alter or amend will toll the running of the jurisdictional 30-day period for filing of a notice of appeal. Accordingly, absent some controlling equitable consideration, the appeal from the order entering summary judgment was filed far too late.

IV

Appellants, however, ask us to relieve them of the consequences of their untimely filing by invoking the "unique circumstances" or "lulling" doctrine. * * *

* * *

For the unique circumstances doctrine to apply, the movant's reliance on the trial court's erroneous action or statement must be reasonable. * * * Accordingly, we have expressed our reluctance to apply the doctrine in the absence of some *affirmative* action or statement by the trial judge which could mislead the movant into believing that he has more time, and we question whether the court's mere acquiescence in a request by the movant would be sufficient.

Although some courts have held that the erroneous granting of an unopposed motion for extension of time, without more, may generate "reasonable" reliance and warrant relief under the "unique circumstances" principle, it is not apparent to us that such reliance can fairly be characterized as reasonable. * * * Indeed, in a situation like the present one, in which the appellants filed a motion for an extension which the judge granted as unopposed, it could fairly be said that, as between appellants and the judge, it was the former and not the latter who did the lulling. Appellants are, if anything, the lullors rather than the lullees.

In any event, any contention that appellants were here lulled into inaction by the words or deeds of a judge is foreclosed by the calendar. Actual reliance by the appellant on an erroneous statement or action by the trial judge is a prerequisite for the applicability of the unique circumstances doctrine. Contrary to appellants' assertion that they were lulled by the action of the judge into deferring the filing of their notice of appeal, it is demonstrable that they could not have relied upon the judge's order because they had not been made aware of it before the expiration of the period for filing their notice of appeal.

* * *

We are mindful of, and ready to apply to the jurisprudence of this jurisdiction, the Supreme Court's admonition that "the Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome." *Conley v. Gibson*, 355 U.S. 41, 48 (1957). We are not dealing here, however, with an oversight in pleading. The requirement in Rule 4(a)(1) that the notice of appeal must be filed within thirty days is treated as jurisdictional in order

> to set a definite point of time when litigation shall be at an end, unless within that time the prescribed application has been made; and if it has not, to advise prospective appellees that they are freed of the appellant's demands. Any other construction of the [Rule] would defeat its purpose.

Browder, supra, 434 U.S. at 264 (quoting *Matten Steamboat Co. v. Murphy*, 319 U.S. 412, 415 (1943)). Appellants failed to comply with this requirement.

Appeal dismissed.

FROM RADIO TV REPORTS, INC.

FOR 18TH & COLUMBIA ROAD BUSINESS ASSOCIATION

PROGRAM News 4 STATION WRC-TV

DATE May 7, 1990 6:00 P.M. CITY Washington, D.C.

SUBJECT The D.C. Parking Game, Part 1

DOREEN GENTZLER: Parking tickets. Nearly everybody in D.C. gets them, and we all hate them. People complain they get too many, they cost too much, and it's too much of a hassle to fight them.

Well, tonight Tom Sherwood begins a series of reports on just how this D.C. Parking Game works.

TOM SHERWOOD: Well, Doreen, it's a big-money game of tickets, towing and booting that reaps millions for the city and misery for its victims.

Who gets the money? What are they doing with it? And what does it mean to you, the everyday driver who hunts for scarce space on city streets, who takes a chance on parking illegally, and who ultimately ends up losing in the D.C. Parking Game.

MAN: There are eleven tickets for $835.

MAN: That's ridiculous.

MAN: Where are you supposed to park around here?

MAN: It's Dodge City down here, man.

SHERWOOD: Now, most likely, this has happened to you. You come out to your car and there it is, a pink intruder on your windshield that says you've been nabbed by D.C. Parking Enforcement.

MAN: You all just don't care. Just scribble, scribble, scribble.

SHERWOOD: The District gave out 1,900,000 tickets just last year, booted 23,000 cars just last year, towed another 23,000 just last year. And last month the fines for many infractions shot up to $50 a pop. It's enough to make people mad.

MAN: I mean what ticket costs a hundred dollars?

SHERWOOD: A lot of people across the city complain about the District Government. They say it doesn't run very well. But the Bureau of Parking Enforcement gets kind of a backhanded compliment. People say it runs too well, that it's too aggressive, and that the city really just wants to make a lot of money.

Whether that's true or not, parking is a big money-maker for the District.

MAN: Yeah. Fifty dollars? That's greed. It should have been 15.

SHERWOOD: Six years ago the city made about $22 million from tickets and towing. By 1988 the total nearly doubled to 40 million. Last year it jumped to 44 million. And this year, with the new higher fines, who knows how high it could go?

This is where it all begins, 9:00 A.M. on a workday at 65 Massachusetts Avenue Northwest. D.C. ticket writers are getting their last-minute instructions.

WOMAN: That's the conclusion of nine o'clock roll call, and everybody report to their venues.

SHERWOOD: Lesson one for drivers: Don't call these hard-working men and women meter maids. They find it insulting. Officially, they're parking control aides, PCAs. But we'll call them ticket writers.

Each one carries this little book. It tells just what you can get a ticket for. And that's just about anything. How about a $50 ticket for not setting your car's hand brake when you park? Or $20 for putting a "for sale" sign in the window of your car?

Sometimes you just don't know what to do. These parking signs can be confusing. But let's say you gamble. You park illegally and you lose. You get a ticket. In many big cities, you have 30 days to pay the ticket. But in the District, only 15, or the fine will double.

But what happens if you never pay the ticket, and let's say you have a few more lying around the house? Well, welcome to the hit list.

This is it, a computer printout of 38,000 tags the city has targeted for booting. That's right, 38,000.

WOMAN: I just -- I mean I just pulled up.

SHERWOOD: Complaining won't do any good. You can't talk your way out of the boot. Once it's on, the boot crew can't take it off. Another crew has the key. That's so there won't be much opportunity for favoritism or corruption.

The average booted car has at least $300 in tickets overdue. But the hit list doesn't hit everybody equally. Ask the city who's targeted most frequently and they'll tell you straight out: cars from Maryland and Virginia.

NADINE WINTER [D.C. City Council]: The booting is basically Maryland and Vir -- non-D.C. residents.

SHERWOOD: Are they fair game?

WINTER: I think it's fair game. Yes.

SHERWOOD: Now, Winter and other city officials say there's a good reason to target suburban drivers. We'll tell you why tomorrow.

And tonight at 11:00, if you've ever gotten a ticket in front of your house, you'll want to hear about D.C.'s strict residential parking permit.

And one last thing. We're going to offer you some parking tips along with each report. And tonight I want to tell you about two ticket-writing hot spots in town. One is the area around 19th and L Streets downtown. The other is Adams-Morgan. Be careful as you play the parking game here. You'll lose.

And many of you play this game called "feed the meter" by rushing out to put another quarter in before time runs out. It's a nice try, but you can still get a ticket with time on the meter. If the sign says "one hour parking," that's all you get, no matter how much money you put in.

Doreen?

GENTZLER: Sounds like there's no way to win this game.

SHERWOOD: There's a lot of losers in town, nearly two million tickets a year.

GENTZLER: Even if you're an expert who's been investigating the...

SHERWOOD: That's right. I couldn't believe it. This is not planned. I sound like a George Michael joke here. I actually got a ticket, $50 for parking in a rush-hour zone this morning. And I actually was happy, because I could have been towed. It would have been $100.

GENTZLER: Oh, my.

SHERWOOD: This wasn't planned. Maybe the company will...

GENTZLER: You should have known better, though, is what we should say.

SHERWOOD: Should have known better. Everybody gets 'em.

GENTZLER: Maybe the company can cover this. Part of research, huh?

SHERWOOD: You heard it here first.

GENTZLER: [Laughter] All right. More tomorrow night.

FOR 18TH & COLUMBIA ROAD BUSINESS ASSOCAITION

PROGRAM News 4 STATION WRC-TV

DATE May 8, 1990 6:00 P.M. CITY Washington, D.C.

SUBJECT The D.C. Parking Game, Part 2

DOREEN GENTZLER: The boot. Just saying the word strikes fear into drivers all over this area. It is the city's ultimate weapon against parking scofflaws.

JIM VANCE: Tom Sherwood has the bottom line on booting in part two of his report, "The D.C. Parking Game."

Tom?

TOM SHERWOOD: Well, Jim, this is the French boot, not the Denver boot. The French boot's tougher steel and it's made by the Palma Auto Company right here in Arlington, Virginia.

VANCE: La boot.

SHERWOOD: The boot.

Each one costs the city about $200, but brings in a fortune in revenue. And D.C. Parking Enforcement discovered the boot back in the early 1980s, but since then it's been the single most important factor in turning parking into a money-making machine. That's good for the city, but bad for you.

WOMAN: Officer, I just pulled up.

MAN: I know, but you have tickets on your car. This why I booted it.

WOMAN: Yes, sir. I saw the [unintelligible] in the book. It wasn't specifically your car. It's just that your car was in our book.

MAN: What you need to do now...

MAN: See, that's ridiculous.

MATT BANKS: ...is to go down to Traffic Adjudication.

SHERWOOD: Meet Matt Banks. He's in charge of all field operations for Parking Enforcement. We rode with him around the city one morning. He told us booting has made D.C. a better place to drive.

BANKS: It used to be that they would double- and triple-park. They paid no attention to it until they -- what really put some teeth in it was when we started booting.

SHERWOOD: Booters start their day at the Brentwood impoundment lot in Northeast. Then they fan out across the city. They're fast. They can spot your car, check it out on the hit list, stop and put on the boot in less than two minutes. They want to be gone before you show up.

Betty Winchester supervises the booters. She used to be one and she holds the District booting record: 52 cars in one day.

! What's the public like? Generally friendly? Angry?

BETTY WINCHESTER: They're not friendly at all. They're generally angry. But for the most part, most of them know why they are getting the boot. And they will take the information that they're given and go down and take care of their fines.

SHERWOOD: Do D.C. booters target out-of-state plates? You bet. Seventy-one percent of the cars on the hit list are from Maryland and Virginia.

TARA HAMILTON [D.C. Public Works]: There's a logical reason for that.

SHERWOOD: It's not warfare with the suburbs?

HAMILTON: No, it's not. No, we're not -- we're not being unfair.

We have the ability to withhold your vehicle registration if you don't pay your parking tickets. We can't do that within anyone from outside of the District. So the only real encouragement we have for people who don't live in the District of Columbia to pay their tickets is to use the boot.

SHERWOOD: It's fair to say that the District Government loves the boot.

Some comparisons: Philadelphia booted 4300 cars last year. Boston, 11,000. The District, a smaller city, booted 23,000.

Those other cities aren't so tough about when you get the boot. In Philadelphia, the boot squads don't even operate in residential zones, and it takes six unpaid parking tickets before you get the boot. In Boston, it takes five, and you get a notice in the mail before you get the boot.

Of course, the boot isn't the District's only enforcement method. Towing is less controversial, but still a headache for drivers. The city towed 23,000 cars last year. Unlike booting, there's no hit list. But two trucks do target areas for daily rush-hour sweeps.

Like booters, D.C. tow crews are fast.

MAN: Most of the time, we don't even see any of the citizens, because it happens, you know, we do it so fast, we don't give them time enough to come and, you know, catch us.

SHERWOOD: One big question: Do they play favorites? Some people say yes. Officials say absolutely not.

We spotted this shiny new Miata in front of the Mayflower Hotel. One look at the license plate showed it belonged to a Member of Congress. It still got the hook.

Illinois Republican, and Miata owner, John Porter was speaking on the House floor when his car was towed. He later told us his wife parked the car in the tow zone and said he's embarrassed by the whole thing.

So was this man. We followed his car from the street to the Brentwood lot, where he finally showed up.

Did you know that it was parked illegally?

MAN: No, I didn't know. In fact, I complained to the police that my car was stolen.

SHERWOOD: And how about the driver of this car? He stopped in a tow zone, put on his blinker, and the car ended up in the Brentwood lot. The blinkers were still blinking.

Now, that leads us to tonight's parking tip. If you're going to park illegally, don't put on those blinkers. You think you're sending a message that you're just going to be there a minute. But the message to the ticket writer is, "There's somebody who's parking here who shouldn't." And you'll probably get a ticket.

Now, tonight at 11:00, what would you do if the city towed your car in the morning and crushed it in the afternoon? A true horror story, Jim, tonight at 11:00.

VANCE: Now, that is bad news.

GENTZLER: I'll say.

VANCE: That happens to people?

SHERWOOD: Well, I don't know if it happens a lot. But we talked to a guy it happened to just last week.

VANCE: Is that right? Whoa.

GENTZLER: You're hearing all kinds of wild stories right about now.

VANCE: That's heavy duty.

SHERWOOD: Right.

VANCE: Thank you, Tom.

FOR 18TH & COLUMBIA ROAD BUSINESS ASSOCIATION

PROGRAM	News 4	STATION	WRC-TV
DATE	May 9, 1990 6:00 P.M.	CITY	Washington, D.C.
SUBJECT	The D.C. Parking Game, Part 3		

DOREEN GENTZLER: Last night we introduced you to the army of booters and tow-truck drivers who make the D.C. Parking Game so painful to play. Well, tonight Tom Sherwood's here with the next step in the game.

TOM SHERWOOD: Doreen, I'm sure you've gotten your fair share of tickets. But let's say you have a few lying around the house and you're ready to -- you know, it's time now to pay up. Now it's time for you to move on to the next move in the D.C. Parking Game, the slow-motion ordeal of Traffic Adjudication.

GLEN MITCHELL: Hello. I'm Glen Mitchell. And I want to welcome you to the Bureau of Traffic Adjudication. Administrative hearings are conducted under authority of District of Columbia law and District of Columoia municipal regulations. All our proceedings are...

SHERWOOD: Welcome to what used to be called Traffic Court in the D.C. Parking Game. Now it's called Traffic Adjudication. It's where you come to pay up or to get a hearing if you don't want to pay.

They come early, rain or shine, bunched at the door of this squat building at 65 K Street Northwest. Nobody wants to be here.

MAN: Oh, it's ridiculous.

MAN: You come here. You think you'll be in and out, but you just wind up wasting half the day here.

SHERWOOD: Along with the anger, bring money.

MAN: Checks, credit cards, cash, money orders, travelers checks. You got it, we'll take it.

SHERWOOD: If you want to pay, it's simple. Just two lines: one to confirm what you owe, one to pay.

If you want to challenge the city, please move to the back. Have a seat, get comfortable. It could take a while.

GLEN MITCHELL: You have a right to be represented by an attorney and present witnesses and documents. You are required to answer each ticket after it is read into the record by the hearing examiner.

WOMAN: If you want to come down here to fight it, you've got to go through all these lines. You know, to pay for a ticket you go one place to sign up. Then you have to sit and wait until they call you in for a hearing. They call you in for a hearing, then after you get the hearing, you have to come out here in another line...

SHERWOOD: The government says it recognizes the problem.

TARA HAMILTON [D.C. Public Works]: We are looking at hiring more hearing examiners. The difficulty is, because it's a walk-in situation, you don't know, really, from day to day how many people you're going to get. And to be honest, as the ticket fines have increased, more people are likely to appeal their tickets.

MAN: 51-through-55 pink, come forward.

WOMAN: Pink or yellow?

MAN: I'm sorry. Yellow.

SHERWOOD: Right now, only 10 percent of the people challenge tickets. Ten hearing rooms await those who play this game. But each time we visited, only a handful of hearing officers were on hand.

NADINE WINTER [D.C. City Council]: We don't want people to have to wait in line more than an hour in any of the services we provide.

MITCHELL: To deny a moving violation, either in part or in whole, you must schedule a hearing so the issuing officer can be present.

SHERWOOD: This sterile maze of crowds, cubicles and confusion can be hard on you and the people who work here. But we saw more people helpful than rude. There's just not enough help.

MIKE DORSEY: Basically, I come instead of the client. Some people...

SHERWOOD: One employee who left Traffic Adjudication is Mike Dorsey. Now he's in business for himself. If you have the money but don't have the time, he'll contest your tickets for you, for a fee. It's $15 each, but that's negotiable.

DORSEY: Sometimes you can come in with one ticket and lose a day. That might not be often, but it could happen. You could lose several hours.

Some people, cabdrivers, getting them so often, they would spend more time here than they are earning a living.

SHERWOOD: Well, you got a collection notice.

MAN: Yeah.

SHERWOOD: Ever get one of these? It's a letter from a private collection agency the city uses when people refuse to pay up. About 400,000 tickets are referred for collection every year, almost all out of Washington. Collection agents tell us many scofflaws pay up by the second or third notice. The dunning notice is threatening. But here's the catch: The city can't do anything if out-of-towners don't pay and don't come back to the city. The collection agency gives up after a year.

MITCHELL: Hello. I'm Glen Mitchell and I want to welcome you to the Bureau of Traffic Adjudication. Our administrative hearings are conducted under authority of District of Columbia law and District of Columbia municipal regulations.

SHERWOOD: Well, that's what it's like. And it brings us to tonight's parking tip. If you don't want to spend all day at Traffic Adjudication, use the mail. You can challenge your tickets through the mail, but before to send them in early before the fines double.

And if you do go down there, go early. You have your best chance of getting out early if you're there before the doors open at 8:30. Some people show up at 7:00 in the morning.

Now, tonight at 11:00 we'll show you how people are trying to fix the nighttime parking madness in Adams-Morgan. And tomorrow at 6:00 we'll tell you about the politics behind the D.C. Parking Game.

GENTZLER: Traffic Adjudication kind of looks like the Twilight Zone.

SHERWOOD: It's pretty weird down there. People who work there don't like it. That's how bad it is.

And we have some talk about the mayor tomorrow. He has some interesting things to say about this.

GENTZLER: We'll hear his opinions about all this?

SHERWOOD: It's not good news.

GENTZLER: All right. Thank you, Tom.

FOR 18TH & COLUMBIA ROAD BUSINESS ASSOCIATION

PROGRAM News 4 STATION WRC-TV

DATE May 10, 1990 6:00 P.M. CITY Washington, D.C.

SUBJECT The D.C. Parking Game, Part 4

JIM VANCE: All this week Tom Sherwood has introduced us to the winners and the losers in the D.C. Parking Game. They are the ticket writers and the ticket payers who keep the game going. But what about the politics behind the parking problem? For that, you need to start with a little history.

Here's Tom's report.

TOM SHERWOOD: Ahhh, back in the 1970s parking in the District wasn't the nightmare it is now. And it wasn'ta gold mine, either. Police wrote traffic tickets. Actual judges handled the cases. The process was slow and there was a lot of ticket-fixing.

In 1979 the city turned parking enforcement over to the civilians, the parking control aides you see all around D.C. streets. It all worked pretty well. But it wasn't until about 1982 that Mayor Barry realized he could turn parking enforcement into what one official called a revenue machine. More ticket writers were hired, fines went up, more boots went on, and the money poured in.

GEORGE FRAIN [parking activist]: It's incredible. I mean the city is just hungry.

SHERWOOD: So it's a revenue machine?

FRAIN: It's a cash cow.

SHERWOOD: One person complained that it's a cash cow for the city. And is that a fair way to raise money?

NADINE WINTER [D.C. Council]: Well, I don't think the city is doing it to raise money.

SHERWOOD: But for a while the city bragged about how much money it was making from parking.

This is a city publication called Fiscal Year Accomplishments. In 1987 it said the average ticket writer made $19,000 a year, but brought in $570,000 a year in ticket revenue. And a year ago, when total parking revenue topped $50 million, Mayor Barry wanted to hold a news conference to announce it. His aides talked him out of it. They said people don't really want to hear things like that.

Motorists who want to avoid ticket writers often head for the private garages. There are a lot of them: PMI, Colonial, Car Park. But how come you never see any public off-street parking, either downtown or in congested neighborhoods like Adams-Morgan? In 1980, ten years ago, the City Council passed a law requiring the mayor to build public parking. Now it's 1990. Nothing's been built.

WINTER: I thought by this time we would have a municipal parking garage downtown. But it also has some political ramifications, which I hope we don't discuss here today.

[Laughter]

SHERWOOD: There's a good reason why she doesn't want to discuss it. Critics say it has to do with the mayor and the big city parking garage owners.

FRAIN: We think that it may be that some of his heavy financial contributors from the parking industry downtown have probably had more access to the mayor's ear and thinking processes than the neighborhoods where he gets his votes.

SHERWOOD: Are these parking barons really powerful? Yes. And not just because they park thousands of cars. Their parking companies are just small parts of much larger real estate development companies, and they contribute to political campaigns.

The law says that an individual or company can give a maximum of $2000 to a candidate. But take a close took at Mayor Barry's January campaign finance report. Look closely and you'll see eight companies, all with the same address, each giving the maximum of $2000. Look closer still and you'll see some strange names: Casino Associates, Lake Potomac Associates, Serendipity Associates. All eight are mainly paper corporations run by longtime developer Dominick Antonelli. He runs his PMI parking business out of this office building in downtown Washington. Antonelli's contributions, and others like them, are legal. But some say they distort the political process.

Antonelli declined to be interviewed for this report.

The man who gets all those political contributions doesn't have to worry about parking. His limousine stops wherever he wants. And Marion Barry told me he doesn't have much sympathy for illegal parkers.

MAYOR MARION BARRY: People shouldn't park illegally. We don't want to raise this money this way. We'd rather that we didn't raise any of it. But if they park illegally, we're going to get 'em.

I've got another program I'm going to announce the latter part of this month that's going to really be aggressive at those people who've not paid us our money.

SHERWOOD: Something tougher than what's being done now?

MAYOR BARRY: Absolutely.

Pay our money.

SHERWOOD: Tom Sherwood, News 4, Washington.

VANCE: Tonight at 11:00 we will hear more from Mayor Barry about why the city hasn't built any parking lots and is not likely to build any soon.

[From the Washington Times, Thurs., Aug. 10 1989]

RENT HIGH, TAX LOW FOR D.C. OFFICES

By Anne Veigle
THE WASHINGTON TIMES

Office rents in District may be expensive, but the city's commercial real estate taxes are among the lowest in the nation, a commercial real estate firm found.

In a study of office rents in 22 cities, D.C. taxes were 8.3 percent of average rental costs, compared with 18.1 percent for New York. Property taxes were highest in Minneapolis where taxes make up 18.6 percent of rental costs.

"Washington rents have gone up quite a bit in the last few years, so we were expecting the property taxes to be higher," said Thomas G. Owens, vice president and regional brokerage manager of Spaulding & Slye/Colliers International, the Washington-based firm that conducted the study.

"For tenants, this is a good situation," he said.

Most building owners pass on tax costs to tenants, so if taxes are increased, rents are likely to go up, Mr. Owens said. Many tenants are looking more closely at real estate tax costs as office rents continue to increase, he said.

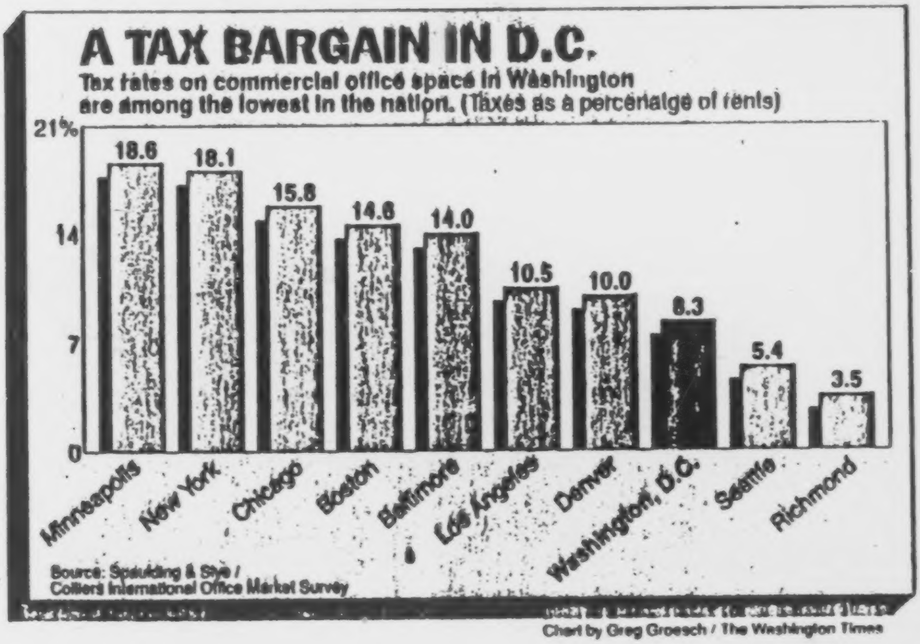
Washington's office rents are the second highest in the nation — $42 per square foot for new buildings compared with $47 per square foot in New York, the study found. Minneapolis rents range from $26 to $34 per square foot, according to Smithy Braedon, another D.C.-based real estate firm.

The Spaulding & Slye report appears to support charges by a union organizing group that the District's real estate industry receives favorable treatment from the D.C. government.

"We have a District government that's broke and yet has these incredibly profitable buildings," said Stephen Lerner, director of organizing of building services with the Service Employees International Union. "It's very hard to explain why the city can't afford to fix school buildings when office buildings aren't taxed."

For the past two years, the union has conducted an agressive campaign — called Justice for Janitors — to organize workers in the District. The union claims building owners pay poor wages and benefits. Tuesday night, more than 200 workers walked off their jobs at 15 buildings owned by the Oliver Carr Co. to protest poor wages and lack of benefits.

But building owners have argued that the wages are set by subcontractors who take care of building services, and therefore are not an issue for developers.



A TAX BARGAIN IN D.C.

Tax rates on commercial office space in Washington are among the lowest in the nation. (Taxes as a percentaige of rents)

Source: Spaulding & Slye / Colliers International Office Market Survey

Chart by Greg Groesch / The Washington Times

The service workers union, which has also attacked developers for not paying their fair share of property taxes, released a study in May suggesting that D.C. building owners pay rates far below the value of their property. The study examined the city's tax appeals procedures and concluded that from 1986 to 1989, the District lost $146.5 million by failing to assess office buildings at market value.

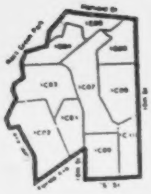
About 85 percent of all buildings appealed their assessments and about 67 percent won reductions in at least one year, the union study found. At the same time, only 3.4 percent of D.C. homeowners appealed their assessments and 1.4 percent were granted lower tax bills.

"Real estate is the major industry in this town, and they're not paying their fair share," Mr. Lerner said. "Why should homeowners pay more and more and buildings are not paying their fair share."

In March, the D.C. government increased homeowner property assessments as much as 77 percent, which will cause considerable increases in tax bills for a number of residents. The increased assessments provoked a flurry of phone calls to D.C. Council offices, and the issue promises to be a hot political concern in the upcoming mayoral election.

Businesses have not been spared from tax increases either. Last May, the District government passed a round of new taxes on services, restaurants, liquor and gasoline.

D.C. tax officials were not available for comment on the Spaulding & Slye study, but in previous interviews have said that the District already is taxing property owners the highest rates possible without forcing companies to move to the suburbs.



Adams Morgan Advisory Neighborhood Commission 1-C

ANCS: Neighborhood Government at Work

Application No. ________________
at ______________________________

The applicant, ______________________ T/A ________________ , seeking a Class ____ license to serve alcoholic beverages, agrees to the following conditions:

1) Hours of operation shall be __________________ Fri.______;Sat:____Sun.___

2) Table seating capacity not to exceed _____ persons;

3) Bar capacity not to exceed ____ stools;

4) There shall be no live music. Recorded music, if any, shall be kept at a reasonable volume (i.e., not able to be heard outside).

5) ____________________ will make efforts to employ neighborhood residents;

6) Trash will be removed (daily, weekly , time of day __________________. . and area for trash disposal will be kept free of litter at all times.

Further, the business hopes to sustain itself by catering to residents of the Adams-Morgan and surrounding neighborhoods and as such sees no need to obtain parking at this time.

The undersigned agree to evaluate the business's impact on pedestrian and vehicular traffic after one year of operation. At that time they will mutually determine what action, if any, will be taken with respect to such traffic and its bearing on license renewal.

In addition, the undersigned agree that the license holder and the ANC may at any time review and amend this agreement.

Signed and dated:

__________________________ Print Name ____________________ Date______
Owner or Officer of Record

Received by: ________________________ Grace Malakoff Date:______
Chairperson, ANC 1C

Received by:____________________ Print Name_______________ Date______
Single Member District Commissioner

[From the Washington Post, Thurs., Feb. 22, 1990]

Spa-Mail

THANKS TO a legalized shakedown provision in this city's liquor laws, a group of neighbors in Friendship Heights have worked out quite a deal for themselves with a new hotel on their block. Four nearby residents threatened to defeat the liquor license application by Donohoe Development Co., which plans to open the $40 million Embassy Suites Hotel on Wisconsin Avenue near the D.C. line—citing a neighborhood-approval clause in the local law. A license could be denied, they noted, if a majority of registered voters living within 600 feet of the hotel signed a petition to the city's Alcoholic Beverage Control Board. One of the closest lawyer-neighbors promptly put it on the line. "We had said to Donohoe, 'We'll just deny your liquor license, you'll lose your franchise, and you probably won't have a hotel there,' " Ethan S. Burger told Post staff writer David S. Hilzenrath. "That terrified them."

But there could be a price, it turned out. Mr. Burger said the petition organizers told Donohoe officials, whose proposal for a hotel had been strongly but unsuccessfully opposed by some residents, "You're building something in our neighborhood that we don't like. You have to award us for our suffering." At one point during the negotiations that ensued, Mr. Burger proposed payments totaling $285,000 and other benefits for the four for "(1) damage to their homes, (2) negligent infliction of emotional distress, (3) private nuisance and (4) trespass." The proposed settlement, said the $285,000 would resolve "a lawsuit" to be filed and that the four would drop their petition to the liquor board if that and other conditions were met.

All that distress and strain would feel a lot better, apparently, if this proposal were accepted, complete with still other provisions obligating the developer to buy the petitioners' houses if they wanted to sell during the next two years, and to award a free parking space and two free health club memberships to each residence within 600 feet of the hotel. At last look, details of the settlement were not disclosed, except for the news that every registered voter within 600 feet would get a free health club membership. In addition, Donohoe agreed to stop serving alcohol in the hotel restaurant and lounge earlier than the law demands each night.

Now, more than a few local governments have laws allowing developers to have certain rights if they offer certain amenities—roads, green space, a community room or some other improvement. But somehow the idea of individuals' negotiating liquor license privileges on the basis of how much each neighbor can get from the business cries out for some tightening of the legal language. This shouldn't wait too long, either: while those neighbors are toweling down in the hotel spa, there are at least four other liquor license applications to be filed for establishments in the same complex. What will the neighbors think of next?

[From the Washington Post, Sat., Feb. 10, 1990]

FREE HEALTH SPA PRIVILEGES END HOTEL DISPUTE

By David S. Hilzenrath
Washington Post Staff Writer

The developer of a $40 million hotel on Wisconsin Avenue NW has had to provide free health club memberships to 150 neighbors to head off a potentially ruinous challenge to the hotel's bid for a liquor license.

Four residents of the Friendship Heights neighborhood had threatened to defeat the liquor license application by Donohoe Development Co., which plans to open the Embassy Suites Hotel at 5335 Wisconsin Ave. NW this year. Under a seldom-used 1987 D.C. law, the license could have been denied if a majority of registered voters living within 600 feet of the hotel signed a petition to the D.C. Alcoholic Beverage Control Board.

"We had said to Donohoe, 'We'll just deny your liquor license, you'll lose your franchise, and you probably won't have a hotel there,' " said one of the four, Ethan S. Burger. "That terrified them."

Burger said the petition organizers told Donohoe officials, "You're building something in our neighborhood that we don't like. You have to award us for our suffering."

The four residents, Burger, Hazel Rebold and William J. and Francine A. Segal, set the petition process in motion last year. In return for their pledge this week to drop the petition, Donohoe also agreed to curtail the hours during which the hotel restaurant and lounge will serve alcohol.

At one point in the negotiations with Donohoe, Burger proposed payments totaling $285,000 and other benefits for the four. It was not clear whether the settlement included special concessions to them.

The project was approved by the D.C. government in 1987 after a bitter fight between Donohoe and neighborhood residents who opposed large-scale development. But under the 1987 law, which survived a court test last year, Donohoe would have had no recourse if residents followed the rules and gathered enough signatures to block the company's liquor license application, D.C. officials said.

"It was not a comfortable position to be in," Donohoe Vice President William O. Vose said, adding that the petition law should be reconsidered.

The formal agreement submitted to the liquor board Wednesday addressed only the restrictions on the hotel. Vose said the company also signed separate agreements with each of the petition leaders. He declined to comment on the substance of those agreements except to confirm the free memberships in the hotel health club for the residents who live nearby.

William and Francine Segal, who are married, declined to comment on their agreement with Donohoe. Rebold referred questions to Burger.

Burger, a lawyer, drafted a settlement proposal in November calling on Donohoe to pay the four petitioners a total of $285,000 for "(1) damage to their homes, (2) negligent infliction of emotional distress, (3) private nuisance, and (4) trespass." The proposed settlement said the $285,000 would resolve "a lawsuit" to be filed and that the four would drop their petition to the liquor board if that and other conditions were met.

Burger's proposal would have obligated the developer to buy the petitioners' houses if they wanted to sell during the next two years. It also called on the developer to award a free parking space and two free health club memberships to each residence within 600 feet of the hotel.

Donohoe ultimately agreed to give memberships in the hotel health club to every registered voter within 600 feet of the hotel, about 150 people, Burger said. Burger and other residents of 43rd Street NW, which borders the development, will get three-year memberships, while other area residents will get one-year memberships, he said.

In addition, Donohoe agreed to stop serving alcohol in the Embassy Suites restaurant and lounge at 12:45 a.m. on Saturday and Sunday mornings and at 11:30 p.m. Sunday through Thursday. Otherwise, the hotel would have been able to keep its bars open until 3 a.m. on weekends and 2 a.m. on other days. The developer agreed to limit live entertainment at the hotel and to provide free parking for patrons to reduce congestion in the neighborhood.

Advisory Neighborhood Commission 3-E, an elected panel of neighborhood representatives, supported the Friendship Heights petition. The commission was mainly concerned that Donohoe could have extended the hotel liquor license to other restaurants and bars in the same complex, called Chevy Chase Pavilion, commissioner Richard Lehfeldt said. The publicly disclosed settlement confined the license to the hotel, allowing residents to file petitions against other establishments that move into Donohoe's project.

Some Northwest Washington residents questioned the propriety of using the liquor license law to seek health club memberships or other personal compensation. Joel Odum, president of the Tenley and Cleveland Park Emergency Committee, which was organized to combat commercial development along Wisconsin Avenue, said it appeared that the Friendship Heights residents were "holding Donohoe hostage."

"There's a fine line that you have to walk between what is genuine concern for the community and 'what can we do for us,'" said Odum, who was arrested in 1987 while demonstrating against another Donohoe project. "What if the developer said to them, 'We'll give you a trip to Jamaica?' To me, it's sort of the same thing."

LETTER FROM J. GEORGE FRAIN

June 28, 1990

Hon. Julian Dixon, Chairman
House Appropriations Subcommittee on D.C.
U.S. House of Representatives
Washington, D. C. 20515

Dear Chairman Dixon:

We submit copies of letters from three D.C. Councilmembers, Chairman David A. Clarke, Betty Ann Kane, and James Nathanson, all of whom protest the actions of your Subcommittees to keep in place the suicide fences on the Ellington Bridge. Mrs. Kane made the issue very clear in her letter when she wrote Senator Brock Adams that:

"Quite frankly, I am surprised and concerned at your invervention in this matter. As a long time champion of D.C. Home Rule, you understand how important it is for the Congress to clearly limit its oversight of District affairs to the Federal interest. I would contend that this is a local matter that has been thoroughly debated both by the Council of the District of Columbia and the D. C. Historic Preservation Review Board." (You gave us a stern lecture on Home Rule on July 29, 1989).

Our business association has been very interested in these fences, and suggested better* alternatives such as a hot-line, and putting vendors on the bridges and giving them money for stopping suicides, and other steps. We urge you to reverse your position regarding the fences, as urged by Councilmembers Clarke, Kane, and Nathanson.

Turning now to another matter, we submit a report from the May 7 issue of the Washington Business Journal regarding a loan of $34.88 million by the D. C. Government in the West End area which has some of the highest priced land in the city with four luxury hotels, and the headquarters building of U.S. News and World Report and the Westin Hotel, both recently purchased by Japanese investors at very high prices. It was reported to us that this $34.88 million loan will provide 88 or 89 parking spaces. Why should the city make such a loan, where are the city's banks? **

We think an investment in municipal off-street parking facilities such as is mandated in the city's Comprehensive Plan, sections 504(3) and 504(6) would be a sounder and more logical project for city funds than a loan to some rich entity in the West End. We think the city's $34.88 million loan is something that you should ask the General Accounting Office to report on. As you know, the city has ignored the parking provisions in the Comprehensive Plan, even though two of the members of the D. C. Zoning Commission are top federal officials, one of whom represents Congress, the other the White House, and the Comprehensive Plan is a "legally binding statement of public policy".

Respectfully submitted,
J George Fra
J. George Frain
Secretary

* as in European cities
** How can a city with a $91 million deficit, and an unfunded $2 billion pension program loan $34.88 million in the luxurious West End which has four luxury hotels?

LETTER FROM DAVID A. CLARKE, CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA

June 15, 1990

The Honorable Brock Adams
United States Congress
Hart Building 513
Washington, D. C. 20510

Dear Senator Adams:

In my testimony before the Subcommittee on the District of Columbia of the House Committee on Appropriations, I gave the following testimony:

> Finally I would urge the committee to resist all reports to use our budget to change District of Columbia laws in areas where states are left free to legislate. Recently, we have seen efforts to amend our Human Rights laws and even to require us to execute people, disregarding our decision as a jurisdiction against it.
>
> Many of these areas are ones of controversy and have moral dimensions with which many decent people of various persuasions wrestle. We have wrestled with them in our jurisdiction, and have resolved them to our satisfaction and that or our citizens. We should be left alone in matters regarding them.

I have now become aware that in the Fiscal Year 1990 Supplemental Budget and Rescissions of Authority Request Act of 1990 language has been included pertaining to the safety fences at the Duke Ellington Memorial Bridge which the city did not ask for.

This matter has been one of great controversy in the city and to which at least a Council committee gave consideration in its deliberations in the FY 1991 Budget Request and the FY 1990 Supplemental Budget request. I would respectfully suggest that the item is peculiarly local, and it is not one in which the federal government has a federal interest.

Accordingly, I urge that the Congress leave this matter to local decision-making.

Sincerely,

Dave Clarke

David A. Clarke
Chairman

LETTER FROM BETTY ANN KANE

June 14, 1990

The Honorable Brock Adams
Senate Appropriations Subcommittee
on the District of Columbia
513 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Adams:

In reviewing House Report No. 101-493 (page 82 attached), it occurred to me that your staff is not fully informed on the facts in the Ellington Bridge suicide barrier controversy. The District government, through the District of Columbia Historic Preservation Review Board (HPRB) held a public hearing in December 1989 on revised plans for the renovation of the Ellington Bridge, including the removal of the suicide barriers and the installation of such alternative approaches as the installation of 24-hour telephone "hotlines." The D.C. HPRB unanimously approved this compromise plan on December 13, 1989, as did the Commission of Fine Arts on October 19, 1989. There is no requirement for this matter to be taken before the Mayor's Agent for Historic Preservation. I have taken the liberty to attach D.C. Law 2-144, which was of course submitted to the Congress for its review, for your information.

As you are perhaps aware, the Ellington Bridge suicide barrier issue has been debated at length by the elected officials of the District of Columbia who overwhelmingly support the removal of the barriers. Quite frankly, I am surprised and concerned at your intervention in this matter. As a long time champion of D.C. home rule, you understand how important it is for the Congress to clearly limit its oversight of Distric affairs to the federal interest. I would contend that this is a local matter that has been thoroughly debated both by the Council of the District of Columbia and the D.C. Historic Preservation Review Board. I would be happy to meet with you or your staff to discuss this matter more fully, if you believe that it would be helpful.

Sincerely,

Betty Ann Kane
Councilmember At-Large

LETTER FROM JAMES E. NATHANSON

June 21, 1990

The Hon. Brock Adams
United States Senate
Washington, D.C. 20510

Dear Senator Adams:

I learned last week that the Dire Emergency Supplemental Appropriations Act contains a proviso: "That none of the funds contained in this Act or any other Act shall be obligated or expended . . . to remove the safety fences at the Duke Ellington Memorial Bridge" until an evidentiary hearing has been held and the Mayor has provided a detailed statement to Congress.

I am greatly concerned about this. Obviously, partisans who were disappointed with local decision making have appealed to the Hill for redress. Yet there is no compelling federal interest in this issue.

Congress should respect Home Rule and leave this local issue to local resolution.

It is troublesome to me that our friends in Congress who are normally supportive of the local, democratic process would now choose to override local decision making that has been exhaustive. There have been at least 10 public hearings on this matter. There was even a lengthy trial. More recently, there have been two community meetings, two meetings of the most active participants (both sides) in the Mayor's office, and official meetings of the Commission of Fine Arts and the Historic Preservation Review Board -- all of these meetings concerning the proposal which Congress has now halted. I personally attended community meetings, including one at which the Mayor participated.

In addition to the numerous public hearings already held, the Mayor has complied with the language in the House FY 1990 appropriations report. The District met the wishes of Congress in reporting in February that the fences would be removed. The only purpose to this new provision is to aid the fence proponents who wish to use Congress to overrule local officials.

The issue of suicides off the Ellington Bridge is not an easy one. For Congress to take sides is not warranted in this case. I ask you as a friend of the District to use your good offices to have this supplemental appropriations requirement repealed. I would be happy to discuss this with you further.

Sincerely,

James E. Nathanson

[From the Washington Post, Thurs., June 21, 1990]

U.S. OVERRULES PLAN TO ALTER ELLINGTON SPAN

By Jenice Armstrong
Washington Post Staff Writer

Weeks before the controversial suicide barriers on the Duke Ellington Bridge were set to come down, the U.S. Congress has quietly derailed the project, ordering the District to justify the action and limiting funding until the city has made its case.

The congressional action, in the form of an amendment to the emergency supplemental appropriations bill signed May 25, was the result of intensive lobbying by supporters of the barriers. Since its passage, the measure has drawn an outpouring of criticism from barrier opponents, who call it an unnecessary intrusion into city affairs.

"Here you've got a local process that's been set up . . . only to have it undermined by the Congress of the United States. It's almost unbelievable," said Dick Clark, intergovernmental liaison for the District, who said he was unaware of the measure.

The D.C. Department of Public Works had been poised to remove the eight-foot barriers this summer as part of a $10 million renovation of the span over Rock Creek Park. To compensate, the District had planned to raise the handrails six inches, to roughly four feet above the sidewalk.

The barriers, installed in 1986, have sparked a whirl of debate and several shifts in the city's stance. In 1987, a mediator appointed by the mayor declared that the barriers constituted a suicide deterrent and should remain. Last summer, Mayor Marion Barry ordered the fences removed.

Lawyers for the Committee for Public Safety at the Duke Ellington Memorial Bridge, a group of local physicians and mental health groups in favor of the barriers, lobbied members of the House and Senate to have the amendment added.

"It's federal money that will be spent . . . to bring them down," said Benjamin H. Read, a former undersecretary in the Carter administration whose 24-year-old daughter committed suicide at the bridge in 1979. "It's a perfectly legitimate federal government interest."

"Is life or death in D.C. only a local problem?" asked Myles G. Glasgow, a vocal barrier supporter from Adams-Morgan. "It might be a congressman's son or daughter who jumps off the bridge."

The District received $172,000 in 1986 to have the wrought-iron fences put up and will have to reimburse the federal government if it removes them.

The amendment was sponsored by Sen. Brock Adams (D-Wash.) and in the House by Rep. Julian Dixon (D-Calif.).

In the six years before the suicide barriers were installed, 24 people jumped to their deaths from the bridge. In the four years since, there have been two suicides from the 150-foot-high span.

"I think what we've done is deter two to three suicides a year," said Glasgow. "No one said that [the fences] were 100 percent effective."

But fence opponents say the statistics do not bear that out, that the number of suicides yearly has not changed significantly.

The figures "are not only similar, they are identical," said James W. Morrison, vice president of the Kalorama Citizens Association, a barrier opponent. "What is the federal government doing telling the city how to fight the suicide problem?"

STATEMENT OF ELAINE J. MITTLEMAN, MEMBER D.C. BAR

ACCOMPANIED BY:

J. GEORGE FRAIN, SECRETARY, 18TH AND COLUMBIA ROAD BUSINESS ASSOCIATION

WILHELMINA MARSHALL, DIRECTOR FOR LEGISLATIVE AFFAIRS, OFFICE OF THE BUDGET, D.C. GOVERNMENT

Mr. DIXON. Next we have Elaine J. Mittleman, and Ms. Mittleman is a regular visitor with us. She talks to us about the parking issue.

Ms. MITTLEMAN. Right. Our lawsuit that has been going on for years, it's formally over with, and I had an oral argument, and Judge Rogers asked really the same question you asked, which is have we ever considered going to the D.C. council.

And I said, yes, we had considered that. And so the problem is, I mean it's the separation of powers issue.

LAWSUIT AGAINST DISTRICT GOVERNMENT

Mr. DIXON. Can you tell me about the lawsuit?

Ms. MITTLEMAN. We were suing. In other words, Mr. Frain and some others, there was a law passed in 1980 for municipal parking which was never implemented.

We filed a lawsuit in 1986 saying it should be implemented, but the main problem is the 1980 law had no mandatory or enabling language. It just said the Mayor may do this, that and the other thing, so it was really horrendous.

Then after we filed the lawsuit, we all testified, as you know, we have been up here, we have been everywhere, and they amended it in 1987. They amended the law to try to make it stronger, and that has also accomplished nothing. And that is something, if you want to check into something, that is what you can check into.

Just very briefly what they did in that amendment, 1987 amendment was created a parking task force, and it was one of these window dressing things. The draft of the 1987 amendment said that the Mayor shall make 1,000 spaces a year for 4 years.That was taken out of the final language, replaced by this parking task force which has not been funded.

Mr. Frain is on the parking task force. It's useless. It does nothing, and that is in the law, and nothing has happened.

Mr. DIXON. How was the law suit adjudicated? What did the court say?

Ms. MITTLEMAN. They threw it out. The appeal was dismissed, and, you know, that is basically—I mean, I don't disagree with their logic, but I am just saying when you have gone to the D.C. council and gotten two laws passed and bringing it to their attention when they are passing it and it is a useless law and go ahead and do it anyway, I mean, they might as well have not passed the law at all for the value of the law.

And even the very modest language in the 1987 law about the parking task force has not even been done, which is simply like they should meet. They haven't even done that, and that law expires in 4 years and it has already been, going on 3 years now, and absolutely nothing to show for it.

So, ironically, you may know as being a Congressman, it in effect made it worse than it was before, because before the D.C. bureaucrats were under some slight gun to make some sort of parking study, and when they got this task force and said, oh, well, now the task force is supposed to do the parking study, so they haven't even done that.

So we are back to pre-1980 days, I guess.

Mr. DIXON. And your primary client interest is in the Adams Morgan area?

Ms. MITTLEMAN. Well, no. I mean, that is who a lot of my clients are, but some were from other parts. Some were from Maryland, and the law isn't written up for Adams Morgan.

Mr. DIXON. I guess what I am getting at is the nature of your testimony today.

Ms. MITTLEMAN. Well, I am just telling you as a legislator when you say talk to the D.C. council, we did, and they knowingly passed a law that was useless, and the little language that is in the law from 1987 hasn't been done. In other words, whatever slight implementing language it had in it hasn't been done, and——

Mr. DIXON. Maybe you could give us some background information.

Ms. MITTLEMAN. I will be glad to provide some information if you need it.

Mr. DIXON. Could you tell me——

Ms. MITTLEMAN. I was trying to be as brief as I could.

DISTRICT AGENCIES INVOLVED IN PARKING

Mr. DIXON. I understand. We are going to wrap up here in 5 minutes. Could you list to me the agencies that in your opinion relate to the parking issue?

Ms. MITTLEMAN. The Bureau of Parking Services.

Mr. DIXON. OK.

But aren't there others? The zoning commission that Mr. Frain talks about?

Ms. MITTLEMAN. The zoning commission.

Mr. DIXON. They would have some impact on parking?

Ms. MITTLEMAN. Yes; in other words, for new buildings there are parking regulations, zoning regulations. You have to make some parking spaces. I am not arguing about that, the zoning regulations.

Mr. DIXON. I am saying with your expertise, what District agencies are involved in parking? The zoning commission has some impact.

Ms. MITTLEMAN. The Department of Public Works overall and the Bureau of Parking Services is part of Public Works.

Mr. DIXON. The zoning commission is an independent free standing, commission. So there are primarily those two entities involved in parking here in the District.

Ms. MITTLEMAN. Right. Parking

REPORT ON PARKING REVENUES COLLECTED

Now, let me just, for example, I could just say one more thing about what they have done, the only affirmative forward step I know they have done was discontinue the report that used to be available, that Mr. Frain and I used to tell you about, how much money they were getting, and when it became sort of like an anti-sunshine account, when it became embarrassing, they now discontinued their report so they can't even tell you how much money they are getting.

Mr. DIXON. You mean as it relates to their revenues for parking tickets?

Ms. MITTLEMAN. Right.

It was an eight page report that I had each year from 1983 to 1987.

Mr. DIXON. Well, the budget justifications always show the anticipated revenues.

Ms. MITTLEMAN. Well, I mean it was a detailed report. It had information about the types of, numbers of PCA and statistics,number of particulars, that has been discontinued, because it was, I think because it was embarrassing.

Mr. DIXON. Well, according to Mr. Touchstone, everybody seems to get a free ride at least on Sundays, except when the police officer wants to write tickets. In other words, he tells me that——

Ms. MITTLEMAN. I will tell the judge that next time I go to court, that I can only come on Sundays. As a matter of fact, I was late for an oral argument——

Mr. DIXON. The parking enforcement people do not write tickets on Sunday. However, police officers are certainly authorized and free to write tickets, so that may be——

Ms. MITTLEMAN. If they do have like three lines, what they told me was under paperwork reduction, they got rid of their eight page report, but it, obviously, isn't comparable, because it is much less paperwork and fewer numbers.

The revenues, as of 1987, it was $61 million.

Mr. DIXON. How much?

Ms. MITTLEMAN. $61 million, total revenue from parking from all sources.

Mr. DIXON. That was for enforcement, though. Although they would rather have the citizens not park there than to collect——

Ms. MITTLEMAN. Well, see, that is what I am saying.

Mr. DIXON. They are not interested in the revenues from this. It is strictly enforcement.

Ms. MITTLEMAN. And that is why they just doubled the parking fines, and it said in the Washington Post——

Mr. DIXON. They did that because they weren't high enough, and they weren't a great enough incentive, so they doubled them so that now it is more economically unfeasible. What they want is none of those cars on the street.

Ms. MITTLEMAN. I understand that, but I am just saying where else?

Mr. DIXON. That is what they want.

Ms. MITTLEMAN. It would be cheaper to walk; right?

Mr. FRAIN. I would like to say, if I may interject, I have a letter here from Frank Wolf asking for an audit of the parking revenues,and they didn't——

Ms. MITTLEMAN. That was several years ago. They never did do that. They wrote to Elaine Mittleman; they didn't provide it because the lawsuit was in effect.

Now, that the lawsuit is dismissed, we are asking that this committee ask for an audit of those funds, because they are over $62 million. They have just doubled several of the fines.

Mr. DIXON. But how does that help?

Mr. FRAIN. We want to know where that money goes to.

Mr. DIXON. Ms. Mittleman, how does that help you?

Ms. MITTLEMAN. I have a business background. I have an M.B.A. Where we got the idea for that was when we were studying the parking issue, there is a magazine, like Business Week, but it is called Parking Management and in that there was an article about the city of Miami, and they have a parking service bureau. I sent away for that material and they have a very professional one, and annual report of the parking services, and it was audited by Coopers & Lybrand just like a company would be, and it showed what the revenue had been one from the parking, and it showed all the council members sitting by some park. In other words, it was clear there was a discreet entity with objectives and showing what they had accomplished.

By contrast to the District of Columbia, we don't have any paperwork whatsoever and what little piece of paper we had doesn't exist anymore.

USE OF PARKING REVENUES

Mr. DIXON. I am just saying, what good would that do? It is my understanding that the revenues from parking fines go into the District's general fund, is that correct, Ms. Marshall?

Ms. MARSHALL. Yes; they do.

Ms. MITTLEMAN. They are pledged to Metro.

Mr. DIXON. Pledged to the Metro Rail?

Ms. MITTLEMAN. Yes; by law, D.C. law.

Mr. DIXON. Is that right, Ms. Marshall?

Ms. MARSHALL. I am not aware of that.

[The information follows:]

PARKING FEES

[The following information was provided by Mrs. Wilhelmina Marshall, Deputy Director of Legislative Affairs, in the Office of the Budget, at the conclusion of the hearing:]

All parking fees are deposited in the general fund of the District of Columbia.

Ms. MITTLEMAN. DC1-2466.

Mr. DIXON. OK. So, we know where the parking revenues go then.

Ms. MITTLEMAN. But I felt, again, it would be helpful—I mean, others' words——

Mr. DIXON. How? How would it be helpful?

Ms. MITTLEMAN. Because I think people need to realize the amount of money those parking fines are being used as a tax, and I think it would, you know——

Mr. DIXON. You believe that——

Ms. MITTLEMAN. No.

Mr. DIXON. And I believe that. That has been my tongue in cheek conversation; the District really wants all of the cars to come into the city and park and, they really want to enforce the law—they really don't want, nor do they need, the revenues from the fines.

Ms. MITTLEMAN. Right.

Mr. DIXON. I have been saying that tongue in cheek for years.

Ms. MITTLEMAN. I know. I have been saying that tongue in cheek as well. I hoped you understood that.

Mr. DIXON. And we know that. And we also know that they make big money off of parking fines.

Ms. MITTLEMAN. Abraham Lincoln said, the people know the facts and the country will be saved."

I think if they knew $62 million came from parking, they might start complaining more than they already are. Maybe somebody else would start hurting. In other words, that is a lot of money. You know, that is not pocket change.

Mr. DIXON. OK. We are kind of agreeing, but missing each other.

Ms. MITTLEMAN. All right. I mean, I am not saying that there is fraud, if that is what you are asking me

Mr. DIXON. I don't know how it helps your case. We already know where the revenues from the parking fines go. It is my opinion that the increase in parking fines was not really, to discourage parking but to increase revenue. That is just my opinion.

Ms. MITTLEMAN. It doesn't make people drive less.

Mr. DIXON. That is my opinion.

Ms. MITTLEMAN. Exactly.

Mr. DIXON. Now, for me to know how much money they took in—I know they took in a huge amount and they are going to take in more next year, because it is not going to decrease parking because people park on the streets out of necessity.

Ms. MITTLEMAN. Absolutely.

But, again, my experience has been with parking, people treat it as a very individualized item, people that get parking tickets, and they don't extrapolate, you know, I have to pay $100 for a parking ticket. If I add up $100 of everybody else, pretty soon you start complaining. See what I am saying? And I know people would realize what kind of money is being devoted to that, and lets raise some other kind of taxes if they really need the money that bad.

When Mayor Barry says he is going to raise taxes to build a parking garage, maybe it would be cheaper to build one and charge rates for an actual structure. I am just saying we need a better——

Mr. DIXON. Better system.

Ms. MITTLEMAN. To think it through logically and not just based on politics and who is your friend.

PREPARED STATEMENT

Mr. DIXON. Anything else you would like to add today?

Ms. MITTLEMAN. No.

Mr. DIXON. I appreciate your sincerity and your very hard work. Thank you very much for coming today.

[The statement follows:]

STATEMENT OF ELAINE J. MITTLEMAN

PARKING SITUATION IN THE DISTRICT

Representative Dixon and Senator Adams, I am glad to be able to see you again to discuss parking in the District. As you hopefully recall, we have been here for several years running—to talk about parking. Unfortunately, we have been here for several years running—to talk about parking. Unfortunately, we have no progress to report. You said to us last year—talk to your local representatives in the D.C. Council. I recently had the oral argument in the D.C. Court of Appeals on the parking lawsuit, and the judges there said the same thing; i.e., this is not a judicial matter, but a legislative concern.

The problem is that we have talked to the D.C. Council, and laws providing for parking were passed in 1980 and 1987. The latter provided for a parking task force, which is basically powerless and simply window-dressing. As I explained last year, the citizens of the District of Columbia have grown increasingly cynical about a government which seems to serve only special interests. Surely, recent events illustrate the stark reality of governance in the District of Columbia. A glib response to talk to the Council is useless. We have talked to the Council. What we have here is a local government that is not working. Congress still has oversight on the D.C. government or we would not be here today. I urge you to inquire as to the status of the parking task force, which has received little or no funding. Please help relieve the cynicism and utter frustration which most D.C. residents feel at the hands of the local government.

ELLINGTON BRIDGE SAFETY BARRIERS

STATEMENT OF MARILOU RIGHINI, D.C. RESIDENT

Mr. DIXON. Is there anyone here who would like to testify that we have missed?

Did Mr. Hankins ever show up?

You are Marilou Righini?

Ms. RIGHINI. I listened this morning to the discussion of the Ellington Bridge, and I just wanted to clarify one point, or at least draw to your attention to one point, which I think might be misinterpreted about the Mayor's agent and the hearing process.

Under the preservation law, the Mayor's agent's hearing is an appeal process from the Historic Preservation Review Board, and after the Mayor's agent's hearing, it can go to the D.C. Court of Appeals, again, an appeal process.

The plans for the current renovation of the Ellington Bridge were not by the Department of Public Works to the Historic Preservation Review Board, with the modified alternative plans for taking down the barriers and putting up replacement barriers, elevating the structure of the regular railing. There was no appeal to the Mayor's agent after the second review process by the Historic Preservation Review Board, because—and I think it would be unfortunate if this committee were to direct an appeal process which is already set in law, and was not used because it could not be used since the city was the applicant for this particular plan, through the Department of Public Works——

The city in this particular renovation that is currently underway was the applicant with the alternative plan of taking the barriers down, and raising the original railing by 6 inches. That was the city's plan.

The alternative plan that came into existence after a long community process, in which all of these people who are in the room today were a part of, once the second time around, so to speak, 2 years alter the first time around.

Mr. DIXON. To your knowledge, what was the city's decision to remove the present safety barriers based upon?

Ms. RIGHINI. The whole community process of trying to come up with an alternative solution to the barriers, which was almost a 2-year process, and I think you have received information about that through various letters that have been received.

When the Department of Public Works went the second time to the Historic Preservation Review Board with this alternative plan, it was approved unanimously by the Historic Preservation Review Board. There was——

Mr. DIXON. When was that?

Ms. RIGHINI. That was last year.

Mr. DIXON. So 1989?

Ms. RIGHINI. I believe so. I didn't come prepared to testify. I will be quite candid, but I think there is some confusion about this. The Mayor's agent is an appeal from a decision taken by the Historic Preservation Review Board under D.C. law. There has been no appeal. The time limit for appeal has expired. The city was the applicant in this particular case. There was no appeal because every thought that the process had ended.

Mr. DIXON. Well, I have a chronology that was prepared, I believe, by supporters of the safety barriers. It says in December 1989—is that about the time this transpired? It says,

> December 1989, D.C. Historic Preservation Review Board publishes notice that it will meet later in month without stating agenda. Proceedings of the HPRB held without knowledge or presence of fence supporters and approval given to removal of fences.

Ms. RIGHINI. The Historic Preservation Review Board hearings are public, and people are notified through various processes, according to D.C. law.

Mr. DIXON. As I said, I can't lay claim to where this chronology came from.

Ms. RIGHINI. I would just urge your committee to look into this.

Mr. DIXON. Let me finish.

It says that the "Historic Preservation Review Board fails to file required notice of its holding in D.C. Register, which is not known to fence supporters until months later." In other words, this assertion is that there was a hearing. It was properly noticed but with no agenda. A decision was made at that hearing, and it was then not noticed in the D.C. Register as to what that decision was until several months later.

Ms. RIGHINI. I find that very difficult to believe since most of the advisory neighborhood commissions in the immediate area made decisions to testify before the Historic Preservation Review Board, and if those notices had reached the community, they were publicized notices at the local level and the Advisory Neighborhood Commission so that the decision could be made.

Mr. DIXON. Well, I don't want to argue the issue. I noticed that you have been—you see, the reason I doubt that is because there was a gentleman here earlier and it came out in the hearing that his daughter had jumped off that bridge, and I doubt very seriously that had he known about the hearing that he would have deliberately not shown up. He seems very strong and determined.

Now, perhaps he wouldn't have gotten his way, but I doubt that if he knew about the hearing that he would just not have shown up.

Do you see what I am saying?

Ms. RIGHINI. Yes; but I find—I guess——

Mr. DIXON. There are people with strong convictions on both sides of this issue, and if he knew there was going to be a hearing in December and they were going to discuss the Ellington Bridge, I can't see this gentleman sitting home.

Ms. RIGHINI. Well, I am just saying if all three advisory neighborhood commissions, which are local advisory neighborhood commissions——

Mr. DIXON. They knew about it.

Ms. RIGHINI. They knew about it, they posted public information that they were going to be making a decision so that they could testify before the Historic Preservation Review Board, I find it difficult to say——

Mr. DIXON. Do you know if there are minutes of those meetings?

Ms. RIGHINI. I am not sure there are.

Mr. DIXON. Were you at that meeting?

Ms. RIGHINI. I was there, not only at the Advisory Neighborhood Commission meeting, I was at the Historic Preservation Review Board meeting. I was also resent at the Mayor's meeting at which both parties were present during a fairly lengthy debate with Carol Thompson and the Mayor and a representative from the Department of Public Works prior to the application that was submitted to the Historic Preservation Review Bard.

Mr. DIXON. You have raised a real, I mean, a very valid point. Was there testimony from those who are opposed at that December meeting?

Ms. RIGHINI. I would have——

Mr. DIXON. Was Mr. Read there?

Ms. RIGHINI. No; but Mr. Read had been out of the country, and I don't know whether that coincides with him being out of the country or not. I do not know.

Mr. DIXON. You don't know if there was testimony against taking down the safety barriers?

Ms. RIGHINI. I don't know——

Mr. DIXON. See, that is what they may be alleging—that all of the ANC people and others who were for it knew it and just kept it quiet if they were for it.

Ms. RIGHINI. I don't know.

Mr. DIXON. I don't know either.

Ms. RIGHINI. All I am trying to raise is I think that——

Mr. DIXON. And you raise a substantive issue, that since the city was the applicant that we should not require an agent's hearing, because it is contradictory.

Ms. RIGHINI. I can understand requiring the Mayor to come back and give you his opinion of why.

Mr. DIXON. And that is the reason I am probing it with you, because I think you raise a very valid point, but in the Mayor coming back, the issue is whether there was a fair opportunity for the complete process to work.

Ms. **Righini**. Under the circumstances, since this has been going on for some 4 years.

Mr. **Dixon**. Longer that that, hasn't it? Since April 1984, it has gone back and forth.

Ms. **Righini**. I just feel that I think everybody has had ample opportunity to speak on this issue.

Mr. **Dixon**. And a process has been followed, if I followed logically what you said. Now you can correct me, but on each and every occasion, the proponents of the fences have won, except until recently when there were some unusual kinds of negotiations where the Mayor went to some meetings and all of a sudden the city modified its original position and decided the fences are to come down. I am trying to find out what occurred and whether it was fair to all sides. And I am asking the Mayor to——

Ms. **Righini**. I am not sure that they were winning.

Mr. **Dixon**. They were prevailing.

Ms. **Righini**. The fences went up without any process. The citizens opposed to the fences took it to court. The citizens won with the court saying there had to be a process. We went back through the process.

Mr. **Dixon**. Right.

Ms. **Righini**. Which was the HPRB.

Mr. **Dixon**. And then they recommended that there be the safety barriers.

Ms. **Righini**. No; the HPRB recommended that the fences be taken down the first time around.

Mr. **Dixon**. No, no; I am saying that the court said——

Ms. **Righini**. Wait a minute. There was no court in here after they sent it back saying you have not gone through the process. The court said that. Take it through. the process.

Mr. **Dixon**. Right.

Ms. **Righini**. That was not winning. That was sending people back to go through a process, which had never occurred.

Mr. **Dixon**. Poor choice of words on my part. Those opposed, tried to get a TRO, a temporary restraining order; the court said there are no grounds for that.

Ms. **Righini**. But they did send it back through the process.

Mr. **Dixon**. And when they sent it back, what happened?

Ms. **Righini**. The Advisory Neighborhood Commission at all three locations said take the fences own.

Mr. **Dixon**. I am saying when the fences went up I am starting from the very beginning.

Ms. **Righini**. I am too.

Mr. **Dixon**. The ANC was in support of the fences?

Ms. **Righini**. No; that is not accurate.

Mr. **Dixon**. That is not accurate?

Ms. **Righini**. That is not accurate. I am sorry to say. The fences went up with no knowledge of the ANC. The ANC, some of the commissioners on the Adams Morgan ANC were part of the suit that took the city to court because they put them up without any notification. The court said, take it back through the local procedures and go through, you didn't go through——

Mr. **Dixon**. Now, in your mind, were the fences up when the court said to take it back through the local procedures?

Ms. RIGHINI. They were already up, which is not a very good place to start a procedure.

Mr. DIXON. And the court said take it back and reexamine the procedure.

Ms. RIGHINI. Yes; the ANC in all three jurisdictions, and there are three of them which border on that area, said take them down. They went to the Historic Preservation Review Board, which they had not gone to, and said what do you think, start from scratch, pretend they are not up? The Historic Preservation Review Board said take them down. The appeal was made to the Mayor's agent. Great proceeding, lots of testimony, and so forth. The Mayor's agent, after a great length of time, said it is in the special interests of the city to keep the things up.

Mr. DIXON. And when was that?

Ms. RIGHINI. I don't have—you have got——

Mr. DIXON. Roughly?

Ms. RIGHINI. No; I mean, are you talking 1988 or 1986? I can't remember.

Mr. DIXON. So, then what happened?

Ms. RIGHINI. The people who did not agree with the Mayor's agent hearing took it to court in the appeal process according to the legislation.

Mr. DIXON. I am just trying to get a timeframe.

Now, the chronology I have says that they took it to court in February 1988.

Ms. RIGHINI. To appeal the Mayor's agent's decision.

Mr. DIXON. Right. The appeal was filed in February 1988; is that about right?

Ms. RIGHINI. Yes; in the meantime, there was a great review process set up in the community with the participation of all three ANC and all civic associations to try and find an alternative solution to the barriers. That was something that had come up in the Mayor's meeting.

When she ruled, she said the alternatives that I have looked——

So, the community went back and said, OK, let's try to find an alternative solution. There was advertisement through, first of all, we got the mental health people involved through the local schools and universities, and up and down the east coast. We put out a competition, brochure that gave information about what the problem was and why we were seeking a different solution to this, both through mental health decisions and through physical appearance. That was all gone through.

The applicants were received. There was a competition. We went through this, and we came out with a number of things, including the enhancement of the bridge as a tribute to Duke Ellington, increasing the original—you are shaking your head?

Mr. DIXON. I am shaking my head because is that when you named the bridge after Duke Ellington?

Ms. RIGHINI. No; the Duke Ellington Bridge was named back when Duke Ellington died.

Mr. DIXON. OK. Go ahead.

Ms. RIGHINI. And so there were a number of things, including recasting the original rails so that they would be heightened by approximately 6 to 8 inches, and taking the barriers down. So after that was all gone through, we——

Mr. **Dixon**. That was considered to be, by someone——

Ms. **Righini**. An alternative.

Mr. **Dixon**. Right.

Ms. **Righini**. And many people were involved in that process, not only City Council people, but also community people.

At that point we went back through the ANC to get their approval of this new design, and plan through all three ANC's. We went to the Mayor and had several meetings with the Mayor. We brought in both opponents and proponents. We sat around for a number of meetings—I can't recall how many—to discuss this issue, at which time it was agreed that the alternative approach would be put forward as the city's solution to the barriers. That had to go back through the Historic Preservation Review Board again, which it did, and the Fine Arts Commission, and all three ANC's, and City Council people came over and testified before the Historic Preservation Review Board, and the Historic Preservation Review Board agreed 100 percent—there was no dissent on that vote—to take the alternative of the city and utilize that as the plan for the renovation of the Ellington Bridge.

Mr. **Dixon**. OK.

Ms. **Righini**. Then that was—we thought, that was the end of it. I will be candid with you. Until in the supplemental language was put in that requires another Mayor's agent's hearing, which is an appeal process, and which caused the Mayor to——

Mr. **Dixon**. Is it an appeal process or evidentiary fact finding?

Ms. **Righini**. No; it is an appeal process.

Mr. **Dixon**. Why is it then—if you have an opinion and certainly you may not have an opinion—that the Mayor's office has not sent us a letter as required by the supplemental language explaining the rationale for the decision to remove the barriers?

Ms. **Righini**. I think that could easily be done and I suspect that part of the problem is that everybody thought this was over with, and then, of course, there are other considerations on the Mayor's mind right now.

Mr. **Dixon**. Well, I mean not the Mayor himself. He certainly has a large staff and a lot of people have been working very effectively in the city.

Do you have an answer, Ms. Marshall?

Ms. **Marshall**. We are reviewing the language in the fiscal year 1990 supplemental and we are in the process of preparing a response to send to you shortly.

[The information follows:]

LETTER FROM MARION BARRY, JR., MAYOR

July 11, 1990

The Honorable Julian C. Dixon
House Appropriations Subcommittee
on the District of Columbia
2400 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Dixon:

In accordance with the provisions of the "Dire Emergency Supplemental Appropriations Act of 1990, and discussions held during the June 28, 1990 Appropriations Subcommittee hearing on the District's FY 1991 Budget and FY 1990 Supplemental Budget, I am providing this detailed written explanation regarding the basis for my decision to remove the suicide barriers on the Duke Ellington Bridge.

As you are aware, the decision to mount the barriers in the winter of 1985-86 was successfully challenged in the Courts by a coalition of District residents. In response, the Department of Public Works (DPW) submitted in May, 1987 the plans for the suicide barriers to the D.C. Historic Preservation Review Board (HPRB) and the Commission of Fine Arts. Because the HPRB found on May 20, 1987 that the barriers were not consistent with the purposes of the District's historic preservation law (D.C. Law 2-144), it did not recommend installation.

A hearing was held by the Mayor's Agent for Historic Preservation in July, 1987. The purpose of the hearing was to determine if the alteration of the historic bridge was in the public interest. Thereafter, the Mayor's Agent found that the suicide barriers constituted a project of "special merit" and therefore alteration of the bridge was in the public interest. Accordingly, retention of the suicide barriers on the Ellington Bridge was approved. This decision was also challenged in the Courts by a coalition of District residents. However, the D.C. Court of Appeals affirmed the decision, holding that the Agent's decision flowed rationally from the findings of fact and was not arbitrary or capricious.

Nevertheless, public debate over bridge-suicides and the Ellington Bridge renovation plans, continued. In March 1988, residents of the surrounding neighborhoods -- principally Adams Morgan, Sheridan Kalorama, and Woodley Park -- organized the Citizens Committee for the Ellington Bridge and Taft Bridges to explore alternatives to the suicide barriers installed at the Ellington Bridge. To that end, they sponsored a juried competition entitled "Alternative Suicide Prevention Strategies for the Ellington Bridge" and a February 18, 1989 "Community Workshop on Alternative Suicide Prevention Strategies for the Ellington and Taft Bridges." The jurors included the Executive Director of the D.C. Hotline and a practicing psychiatrist.

Based on the ideas put forth in the competition and at the workshop, I held meetings with both the proponents and opponents of the suicide barriers on March 16, April 10, and April 26, 1989. The neighborhood meeting held on April 10th drew some 200 persons. After these meetings and consultation with staff, I approved the following alteration and instructed DPW to incorporate them into the renovation plans for Ellington Bridge (as reported to you by letter dated February 23, 1990):

a. Remove the existing safety fence;

b. Widen existing sidewalks to better accommodate pedestrian use, and adjust lighting for compatibility;

c. Place appropriate hotline equipment on Ellington Bridge;

d. Add large commemorative plaques, informational banners and a music system; and

e. Raise existing handrail by six (6) inches, and modify and extend the existing row of metal spikes by an appropriate amount. Also, adjust the stone coping at the lookouts and on the bridge approaches for compatibility.

After public notice, DPW presented the Ellington Bridge project modifications to HPRB at its regularly scheduled meeting on December 13, 1989. Two affected Advisory Neighborhood Commissions, 1C and 1D, numerous civic organizations, and individuals testified in support of the modifications. The transcripts and records of the meeting show that HPRB unanimously recommended approval of the modifications. As a result of this favorable recommendation, no further hearings were required.

The 1986 installation of suicide barriers was temporary, and the community was told this at the time. The effectiveness of these suicide barriers was always intended to be evaluated, followed by a decision on the means of permanently addressing the suicide issue. The revised renovation plans are, I believe, the best approach toward the myriad of issues regarding the Ellington Bridge. Their presence presents questions about providing barriers on other bridges and high places. The renovations will provide an adequate measure of safety to the public. They will enable suicide attempters to reach help via the hotline phones to be installed. They will encourage pedestrian life on the bridge through wider sidewalks and the memorial to Duke Ellington, which should change any image of the bridge as "the suicide bridge" and deter some potential suicides.

On the other hand, the barriers have not been successful. In fact, the barriers have not deterred suicide attempts. There have been at least four attempts, including one non-fatal jump. The most recent attempt was April 10, 1990. Statistically, it is difficult to "prove" that the barriers have reduced suicides off the Ellington Bridge. The number of suicides in the three years before high publicity resulting from the barrier controversy, compared with the three years afterward, are identical; there were no more suicides before the rails (1981-1983) than after the rails were erected (1986-1988).

Since the barriers were erected, there has been an increase in bridge suicides from other locations. A 1987 Department of Human Services report showed that jumps off the nearby Taft Bridge went from one in 1985 to five in 1986. The Taft Bridge has become a regular jumping site, and the not-too-distant Glover Bridge has become a jumping site, for the first time, subsequent to the erection of the Ellington rails. If the rails merely divert suicides to another location, they are ineffective.

The barriers have to be removed as part of the contract work to renovate the bridge. Removal would require full reimbursement to the federal government for the barrier installation.

In conclusion, I believe that the compromise approach which I approved in 1989 is eminently responsive to all community concerns. The physical modifications will facilitate the transformation of the bridge to a vital community place which affirms the value of human life. The placement of 24-hour suicide counselling hotlines on the bridge will both provide immediate counselling to those seeking it and allow concerned passers-by to phone in the possibility of a suicide. The original handrail has been redesigned to increase its height by six inches, principally to improve the safety of the bridge for pedestrians.

I have become convinced in the last year and a half that passive suicide barriers on bridges are not an effective technique to reduce the incidence of suicide in the District of Columbia. I firmly believe that the central element in suicide prevention is human intervention, such as counselling, not the construction of barriers.

I trust that this letter will satisfy the requirements of the language included in the Dire Emergency Supplemental Appropriations Act, as to both the process and the basis for my decision to approve the removal of the suicide barriers on the Ellington Bridge.

Sincerely,

Marion Barry, Jr.
Mayor

Ms. RIGHINI. Carol Thompson, who is the Acting Mayor right now, knows this situation well. She sat in on many of these meetings and is thoroughly apprised of the situation, and you know, I really find it difficult to understand.

Mr. DIXON. Going in, there seems to be a lot of evidentiary material that was gathered and established the basis for installing the barriers. Notwithstanding the vote of the ANC's, and notwithstanding the opinions of various groups, the Mayor's agent, as he is called, made a decision, which you suggest was contrary to the popular show of hands decision.

Ms. RIGHINI. No; I am saying——

Mr. DIXON. Is that what happened?

Ms. RIGHINI. I am saying that the Mayor's agent decided, on the basis of what she had as an alternative before her, she asked several times throughout that hearing whether there were other alternatives.

Mr. DIXON. And no one brought anything forward?

Ms. RIGHINI. Well, let me be candid with you. The community people feel very positively that the city should have come forward with some alternative plans, and they didn't. However, in the next two——

Mr. DIXON. They came forward with a plan.

Ms. RIGHINI. The city came forward with a plan after the community, at great expense to the community, went out and sought alternative plans through professional organizations, through universities with architectural schools, with universities with psychological and psychiatry schools, and you know, I mean——

Mr. DIXON. But everybody on both sides of this has gone to great expense. There is an attorney here today although Mr. Read indicated the attorney was pro bono. I mean you make it sound as if there is unanimity of opinion on safety barriers, and from what I can see, there isn't.

Ms. RIGHINI. All I am saying is that before the Mayor's, the first Mayor's agent and the only Mayor's agent's hearing, there was no alternative, except what was being proposed: Take them down.

Mr. DIXON. By the city?

Ms. RIGHINI. By the city.

Mr. DIXON. And the city put them up and they probably felt that that was their position and they didn't have to come up with an alternative. I mean, I don't know. Everyone is really worked up about this. The gentleman this morning even suggested that there are racial overtones to this, and everyone is discounting everyone else's opinion.

Ms. RIGHINI. Well, all right.

Mr. DIXON. You see the tension that has gone on here. I am just asking the Mayor's office to respond to what happened and what they did.

Ms. RIGHINI. I think that is a legitimate request. I am just suggesting that going back through a Mayor's agent's hearing, which is an appeal process——

Mr. DIXON. And I am going to take another look at that. That is the reason I kept pursuing it with you. I am going to take another look at that. I am not saying what recommendation I will make to this committee, but I am going to take another look at that element. But I just want to know what procedure was followed.

Ms. RIGHINI. There is so much.

Mr. DIXON. There may have been a lot of political activity, town meetings, show of hands, a lot of emotions, some expert witnesses coming in on this side, some expert witnesses coming in on that side—some of the arguments that have been made here, in my opinion, are just, just beyond the pale of reason, on both sides.

One gentleman sat down here and implied that race is a factor. The gentleman that sat there said, there says, well, it makes a bad statement because the statement is that "we don't want people to jump here, we want them to jump some place else." That was said the other day.

The expert witness goes broader and says "people are going to jump if they want to jump, and if they don't jump here, then they will jump some place else, and so balancing that with the aesthetic value, we should take them down." This is a highly charged emotional issue on both sides.

Ms. RIGHINI. I agree.

Mr. DIXON. The committee is just trying to follow through and try to find out what happened. We have heard from all of the people. But we put the Mayor's office on notice in May 1990, and we haven't heard anything to this day. And when I say the Mayor, I mean the Mayor's office. We haven't heard a word from the Mayor's office.

I am just wondering why, and that goes to whether this language or some appropriate language should be in this year's bill.

Ms. RIGHINI. Well, I guess my only remark——

Mr. DIXON. You understand my position.

Ms. RIGHINI. My only remark is that in May 1990 the language there also requires the Mayor's agent's hearing, and if I were sitting——

Mr. DIXON. If he had written and said, look, "you guys don't understand, the Mayor's agent is an appeal process, so that shouldn't have been included in the law, but I will comply and tell you what happened and the basis for my decision to remove the safety barriers", and then we could do what we want to do.

There has been nothing—it has been totally silent.

Ms. RIGHINI. Well, I think that there should be a response.

Mr. DIXON. That is all we are asking for. And we haven't gotten it, so the issue is whether language of some sort should be carried forward to at least get a response.

Ms. RIGHINI. Agreed.

Mr. DIXON. So now do you understand where I am in this process?

Ms. RIGHINI. Yes.

Mr. DIXON. That is all I am asking for is a response. I did not intend, nor do I think Senator Adams intends, to try to pit these people against each other. But all of a sudden they came out of the wood work—every one is vocal—except the people we addressed the language to—the District government. They are sitting back. They are not saying anything. The fight is going on, once again, between people of good will on both sides.

Ms. RIGHINI. Well, maybe, you know, it has to do with the point that that was language in a supplemental, which is very much needed. So I mean you have to think of the political realities in this whole situation as well.

Mr. DIXON. All he has to do is respond. That is all that I am saying. And then it is up to us to judge whether the response is adequate.

Ms. Marshall, do you know whether the Mayor's office has responded to this language?

Ms. MARSHALL. We have not, but we are aware of the language. We are reviewing the language and we are in the process of preparing the response.

Mr. DIXON. But the issue is whether some language goes forward, Ms. Marshall.

Ms. MARSHALL. OK.

Mr. DIXON. And these people are saying "don't let this language go forward," and I am saying there hasn't been compliance and it should go forward to some extent if we don't get an answer. So the ball's in the District government's court.

Ms. RIGHINI. Please serve. What can I say?

Ms. MARSHALL. We will.

Mr. DIXON. I took the time to go into this with you, because you raised a valid point, and I noticed that you sat here all day. I didn't know what you were interested in, but you were interested in this issue. And I didn't mean to be disrespectful or argue against your position at all.

Thank you very much for coming today.

Mr. DIXON. Are there any other public witnesses here to testify today?

ADDITIONAL PREPARED STATEMENTS

If not, we will place in the record at this point the following statements that were received for the record.

[The statements follow:]

ABORTIONS

STATEMENT OF THE RELIGIOUS COALITION FOR ABORTION RIGHTS

The Religious Coalition for Abortion Rights is an organization of thirty-five national Protestant, Jewish and other religious bodies. Each of our member faith groups approaches the issue of abortion from the unique perspective of its own theology.

Our member organizations agree that in our pluralistic society, no one religious viewpoint on the beginning of human life should be imposed on all Americans by secular law. They believe that abortion is a moral and theological concern, and that an abortion decision should be the result of thoughtful consideration. Our support for reproductive freedom springs directly from our commitment to religious freedom.

The Religious Coalition for Abortion Rights holds in high respect the value of potential life; we do not take the question of abortion lightly and we are NOT PRO-ABORTION. WE ARE PRO-CHOICE AND WE ARE PRO-LIFE. We do not condone abortion as an alternative to responsible use of contraceptives, or when the fetus is not of the desired sex. Nevertheless we believe that abortion should be available as a safe and legal option for all women. We also believe that women should be supported in their decision to carry their pregnancy to term.

A decision regarding abortion is not one that women take lightly. When faced with a problem pregnancy, each woman must weigh a variety of factors and choose the option which best reflects her needs and values. It cannot be approached simplistically as a matter of absolute morality or immorality.

Religious groups in the United States espouse starkly divergent views about abortion. Yet many of these denominations --including the Presbyterian Church (USA), offices of the United Methodist Church, the Christian Church (Disciples of Christ), the Episcopal Church, the United Church of Christ, the Moravian Church and members of the Reform, Conservative and Reconstructionist Jewish movements - have come to respect the diversity of theological opinions on this issue.

Within the Baptist tradition, pronouncements reflect the views and guidance of elected representatives, but are non-binding in matters of conscience. Historically, abortion has been treated as a matter for individual conscience, in keeping with the Baptist tradition of individual voluntary baptism and a commitment to responsible families and parenthood. Some Baptist denominations have in recent years moved away from their historic commitment to 'soul liberty', i.e. freedom of conscience, but it remains a fundamental tenet of the faith for many.

The Episcopal Church at its 1988 General Convention reaffirmed its support for women facing choices about abortion. That resolution states: "Resolved: The position of this church, stated at the 62nd General Convention of the Church in Seattle in 1967, which declared support for the 'termination of pregnancy' particularly in those cases where 'the physical and mental health of the mother is threatened seriously, or where there is substantial reason to believe that the child would be badly deformed in mind or body, or where the pregnancy has resulted from rape or incest' is reaffirmed. Termination of pregnancy for these reasons is permissible." Authorities for the church noted that the church stands firm in its resolve to be both pastorally supportive of women in their choices and to work to maintain a society where they do indeed have constitutionally guaranteed choices.

Other Protestant churches have declared their support for a woman's choice regarding abortion because of potential risks to the life or physical or mental health of the mother, because of concerns about the social situation in which the infant might be born, and because of instances of severe deformity of the fetus. The United Methodist Church, for example, resolved in 1976 to affirm the 'principle of responsible parenthood, and the right and duty of married persons prayerfully and responsibly to control conception according to their circumstances." In contrast, representatives of the Lutheran Church-Missouri Synod testified before a Senate subcommittee that in their religion, human life begins with conception, but that nevertheless, any threat to the life of the pregnant woman must be resolved in her favor.

Within the Jewish tradition, there is considerable agreement that the fetus is not a person before birth and that abortion therefore is not murder, and may be permitted, and indeed required, in situations where the life of the mother is threatened. The Talmud, a collection of Jewish civil and religious laws, attributes humanity to the fetus only after the head has emerged from the birth canal. In Reform and Conservative Jewish teachings, abortion is not equated with the destruction of life. A woman's life, her pain, and her physical and mental well-being take precedence over that of the fetus.

The anti-choice movement is largely composed of people motivated by religious beliefs. They believe that the fetus is a person from the moment of conception and that abortion is murder. Regardless of the circumstances, they believe that in nearly all cases the existence of the fetus totally outweighs considerations of the woman. These are the teachings of the Roman Catholic Church and the fundamentalist Christian movement.

Thus, there is no one theological belief on the issue of abortion. It is exactly this plurality of beliefs which leads us to the conviction that the abortion decision must remain with the individual to be made on the basis of personal religious principles and conscience, free from government intervention.

Respect for the religious beliefs or convictions of all persons and the principle of separation of church and state are the bedrock of American democracy. When these fundamental principles are undermined by efforts to define an orthodoxy to which all are held, the fabric of our society is weakened.

The District of Columbia government has chosen to respect the diversity of religious views about abortion by affording all residents the right to make a personal moral choice about whether to continue a pregnancy to term. They would extend this right without regard to race, religion or economic status. They do this by not withholding medical benefits from Medicaid-eligible women who choose abortion rather than childbirth.

Currently there are seven (7) states which have chosen to fund most medically necessary abortions for poor women -- Alaska, Hawaii, Maryland, New York, North Carolina, Oregon and Washington. These states' laws range from making funds available for medically necessary abortions, to stating that "Medical funds for abortion are available in cases in which (1)continuation of the pregnancy is likely to result in the death of the pregnant woman; (2) the woman is a victim of rape or incest that has been reported to a law enforcement or public health agency officials; (3) the fetus is affected by genetic defect or serious deformity or abnormality; or (4) continuation of the pregnancy would have a serious and adverse affect on the woman's physical or mental health."

An additional five (5) states - California, Connecticut, Massachusetts, New Jersey and Vermont -- are required by state courts on the basis of state constitutions to include coverage of most medically necessary abortions in state-funded programs. Whether a legislature voted to provide funds or whether a state's constitution required non-discriminatory coverage, no state was subject to a sitting Administration or the United States Congress.

Until Fiscal Year 1989, the District of Columbia was extended this same prerogative--to use local revenues for abortion services. In FY 89, Congress exercised its constitutional authority over the District and overruled the decision of the District's duly elected government to provide funding. In FY 90, the President exercised his veto power over the D.C. Appropriations bill, and overruled both the District government and the Congress on this matter.

While Congress and the President have exercised raw power over the District government, there is no rational reason to continue on this course. It is not sound public policy to trump the choices of local government seeking economic justice for their constituents as well as individual women. Poverty, the cost and availablity of health care, scandalous infant mortality rates, and an epidemic of teen pregnancy provide the context in which these policy decisions are made.

The poverty rate for the District of Columbia is approximately twenty-two percent (22%) for Blacks; thirty-five percent (35%) for Hispanics; three percent (3%) for Whites; and eight percent (8%) for others. The poverty rate for female headed households with children under 18 is considerably higher at thirty-six percent (36%). The poverty rate for all other families with children is only ten percent (10%).

Approximately 93% of residents of the District of Columbia who are eligible for Medicaid are people of color. AFDC payments per month for a family of three represent less than 50% of the D.C. standard of need. In the District of Columbia, the average cost of an abortion is $485. If a low-income woman in the District of Columbia were to seek an abortion under the current restrictions imposed by the Bush Administration, she might have to raise the money or decide whether to spend food, clothing and shelter funds for herself and her existing family.

The difficulty in raising money to pay for an abortion can also lead to delay, which significantly increases the health risks to the woman. While abortion is considered one of the safest medical procedures when performed by a licensed practitioner, each week of delay heightens the possibility of serious health complications by 20% after the eighth week of gestation. In 1982, women who were eligible for Medicaid obtained abortions two to three weeks later than other women. Ironically, the cost of an abortion also increases with the delay.

The Women, Infants and Children (WIC) supplemental food program provides screening, nutritional counseling and food supplements for low-income pregnant women and children up to age five who are diagnosed as nutritionally at risk. WIC is an extremely effective program. The long-term benefits include a reduction in infant mortality, higher birthweights, and the improvement of nutritional outcomes for children during the first six years of their life.

In 1989, the DC Commission on Public Health estimated that 25,000 women were eligible for WIC within the District of Columbia. This estimation is based upon a family of one with an income of less than $11,000, which is 185% of the poverty level. As of January 1990, only 3,500 - or 14% - of eligible DC women actually received WIC. Of these, 88% were Black, 10% were Hispanic and 2% were either Asian, Native American or white.

Nationally, however, WIC reaches less than 50% of the eligible women, infants and children. Although President Bush has proclaimed support for this program, there has been no proposed adjustment for inflation or increase in the Administration's proposed FY 91 budget. It is projected that if the Bush proposal passes Congress, there will be a reduction in the current service level for the WIC program.

The United States ranks nineteenth in the world in infant mortality rates with 10 deaths per 1,000 live births. According to the Children's Defense Fund, "Poor children are twice as likely to be born too early or too small and to die in infancy." Low birthweight contributes to two-thirds of the deaths among babies in their first month of life. Both the infant mortality rate and low birthweight births for Blacks is more than twice that of whites. According to the public Health Service of the U.S. Department of Health and Human Services, the infant mortality rates for Hispanics, Asians and Native Americans are underestimated due to problems in classifying race and origin on birth and death certificates. It is their opinion that infant mortality rates have been underestimated by 26% for Native Americans, by 39% for Japanese, by 51% for Filipinos, and for other Asians by 61%.

In 1988, the infant mortality rate for the District of Columbia was 23.2 per 1,000 live births. Within the District of Columbia, Ward 5 has the highest infant mortality rate at 33.1. For Blacks in the District of Columbia, the rate was 23.9. The rate for Hispanics living in the District of Columbia has been estimated at 19.6 and could range anywhere from 9.5 to 29.9. The D.C. Department of Human Services believes that there is an underreporting of Hispanic infant deaths as the baby's country of origin is often listed as "American" on death certificates with no further information.

A large percentage of low birthweight births are preventable with early and adequate prenatal care. Furthermore, there is a consistent correlation between lack of early and sufficient prenatal care and low income. Only 56.1% of Black women received prenatal care during the first trimester in 1987, compared to 86.2% of white women. According to data from the National Center for Health Statistics, of states providing data on early prenatal care, the District ranks 43rd for Black women and 3rd for white women. Moreover, 12.3% of Black women began prenatal care in the third trimester or not at all - more than four times the 3.0% rate for white women.

Every year, one fourth of all abortions are obtained by teen women. This represents about 40% of those teens who actually become pregnant. Teen mothers are half as likely to finish high school, seven times more likely to be poor, and more likely to have premature or low birthweight babies. Low birthweight infants have twenty times higher risk of infant mortality than infants of normal or average birthweight.

The anti-choice movement has suggested adoption or foster care as an alternative to abortion. The question of whether a woman is physically or emotionally capable of carrying a pregnancy to term is never addressed. Further, this may not be a realistic alternative for children of color. In 1985, the U.S. Department of Health and Human Services estimated that there are approximately 36,000 children awaiting adoption in this country at any given point in time, of which one-half are minority children. They also estimated that 42% of the 276,000 children in the foster care system are children of color.

While Black foster care children are less likely than white children to have physical or mental disabilities, they remain in foster care much longer than white children. Many Black families who want to adopt are screened out by insensitive criteria that place higher priority on middle-class status, two parent families, and heads of households under 40 years old with no children of their own. Taking into account the general socioeconomic status of many Black families and the fact that over 52% of all Black families are female headed and living below poverty, adoption of Black children is not a reality. Thus, hundreds of Black foster care children are never adopted and must age out of the system. According to a 1989 study performed by the National Black Child Development Institute, between 25% and 40% of children in foster care nationally are Black.

In 1989 poor women living in the District of Columbia first lost a fundamental right -- the right of reproductive freedom. The Administration and the Congress decided that no local public funding shall be used for abortions in the District of Columbia irrespective of the votes of the Council and the wishes of the citizens. What the Administration said is simple. Roe v. Wade is still the law of the land. But if you live in the District of Columbia and if you are poor, we can limit your rights.

The bottom line remains the same: if you have money, abortion remains an option; if you do not, the federal government will pay 90% of the cost of sterilization and it is available on demand. The door has been nailed shut for poor women, preventing equal access to necessary medical treatment. In contrast to the access to abortion services for women of means, poor women of color living in the District of Columbia are being discriminated against simply because of their socioeconomic status and residence.

RCAR does not advocate abortions. But make no mistake; women will continue to seek abortions whether it is funded or not. Poor women will make life threatening sacrifices that jeopardize themselves and their families. Poor women will die at the hands of butchers. And the first one to die, again, will be a poor woman of color. RCAR urges the House District of Columbia Appropriations Committee and this Congress to affirm home rule of the District of Columbia, as it seeks to meet the health needs of poor women, including the ability to use local tax dollars to provide economic justice to low income women as it relates to reproductive health care.

POLICE DEPARTMENT

STATEMENT OF GARY HANKINS, CHAIRMAN, FRATERNAL ORDER OF POLICE/METROPOLITAN POLICE DEPARTMENT

Chairman Dixon, other members of the Sub-Committee, thank you for this opportunity to testify before you today.

I also wish to thank you for your role in providing the funds to increase the Metropolitan Police Department to an authorized strength of 5,055 members. We have sorely needed the additional manpower for many years. As I see new members coming on board each month, I feel more confident that we will have the manpower to respond to the crime and violence in our streets.

There are just a few items I wish to comment on here today. First, the continuing shortage of equipment, cars, supplies and technology. I have been before you in the past asking that we get the money to upgrade our computers, expand our fleet of vehicles, obtain adequate uniforms and secure a broad range of support essentials. While their have been increases, we are still beset with Detectives who do not have cars to respond to crimes, offices where dozens of people share a single typewriter, patrol officers going on the street without enough radios and an almost universal lack of computers in offices and scout cars. My members are asked every day to engage a violent immoral enemy on our streets without adequate equipment or training. I cannot understand how you can continue to allow this to happen. While we sit here and exchange words about who's responsible for what and bemoan unfulfilled passed promises from the District government to do better, my members and the people who live, work and visit in Washington are being unnecessarily exposed to greater dangers than ever encountered here. What words can I offer that will finally stir action. When will this sub-committee and the Congress intervene. I am sorry if I seem disrespectful to you, but what I and my fellow officers see on our streets demands immediate attention, not more deliberation.

The Indoor Firearms Range at our Police Academy remains closed after four years of promises to have it renovated. This has a continuing adverse impact on our firearms training. Our outdoor range has been pieced together by my members who have begged, borrowed, donated and manufactured systems and components. It is frustrating and disappointing that despite your attention and the City's promises the police department for our Nation's Capitol has no functioning indoor range and its outdoor range would not be operative but for the admirable abilities of our range instructors to use their ingenuity to surmount the obstacles of bureaucratic indifference and lack of funds.

The Metropolitan Police Department's budget was cut year after year for more than 15 years. Where we were once on the leading edge of modern police science, we are now adrift in the backwaters. In order to repair our infrastructure and adequately equip our men and women, I am asking that you increase our Other Than Personal Services portion of our budget by 50%; that this sub-committee recommend to the House that the Metropolitan Police Department be given the authority to spend up to 500,000 dollars through its own Finance Offices; and that all funds appropriated or otherwise identified as being earmarked for the MPD remain in the MPD budget until expended.

We need this last authorization to ensure that our Department does not have to give unexpended money back to the general funds of the District. I believe that the pattern established in the past which cost our department millions of dollars each year will continue if we are not able to spend more money ourselves and roll over funds from one fiscal year to the next until they are spent for the purposes for which they are appropriated.

Finally, I would ask that this sub-committee take note of the report prepared for Congressman Gallo by the General Accounting Office regarding our recruiting and training standards. The demands of a highly sophisticated criminal justice system on today's police officers are great. We need more intelligent, articulate and better trained officers than ever before.

It is imperative that the MPD be accredited or associated with a nationally recognized criminal justice program. How much good will it do if we add a thousand new officers but we do not provide them with a proper education in the law.

The goal of restoring safety and serenity to our streets will not be reached tomorrow, nor even next year. It will be a long and difficult road. We need your commitment every year to turn things around and then to keep the ground we gain.

I appreciate your attention. I will be happy to answer any questions you may have.

ELLINGTON BRIDGE SAFETY BARRIERS

LETTER FROM RICHARD A. GLICK AND WILLIAM E. VINCENT, COUNSEL FOR THE COMMITTEE FOR PUBLIC SAFETY AT THE DUKE ELLINGTON BRIDGE

April 13, 1990

BY HAND

Steven J. Raiche
D.C. Department of Consumer
and Regulatory Affairs
Historic Preservation Division
614 H Street, N.W.
Washington, D.C. 20001

Re: Ellington Bridge Application -- Request for Hearing

Dear Mr Raiche:

We represent the Committee for Public Safety at the Duke Ellington Bridge ("Committee"), an association consisting of 24 community organizations that have joined in an effort to ensure that the safety fences at the Duke Ellington Memorial Bridge are retained. It has recently come to our attention that on February 2, 1990, the District of Columbia Department of Public Work's ("DPW") Application for "Alteration/Repair Public Space" was noticed in the District of Columbia Register pursuant to the requirements of Section 6(a) of the Historic Landmark and Historic District Protection Act ("Historic Act"), D.C. Code Ann. § 5-1005(a) (1988). Although the notice fails to indicate what the planned alteration to the Bridge is, we believe that the DPW possibly has applied for permission to remove the safety fences located there. If the Application includes such a request, the Committee hereby requests that a hearing be held pursuant to Section 6(e) of the Historic Act to determine whether removal would be necessary in the public interest, based on the special merit which the retention of the fences would provide.

The safety fences at the Bridge provide a significant public benefit in terms of the prevention of suicides, murders, and accidental deaths from persons jumping, being pushed and falling. Prior to the construction of the fences, numerous people lost their lives due to the low level barriers located at the sides of the Bridge. In 1985, the D.C. government decided that it was time to make a serious effort to end these tragic losses of life. Since that time, the number of deaths has been drastically reduced.

Residents of the District witnessed a dramatic example of the need for the safety fences on Tuesday, April 10, when a man attempting to jump from the Bridge was rescued by police. If the fences had not been there, the police would likely have not been able to get there in time. Factors like these must be thoroughly evaluated before a determination is made as to whether it is necessary in the public interest to issue a permit for the removal of the fences.

When the issue of the construction of the safety fences first arose, Judge Wertheim found that a public hearing under Section 6(e) of the Historic Act was required because the retention of the safety fences involved "special merit." Butler v. District of Columbia Department of Public Works, No. 0084-86, slip op. at 10 (Mar. 27, 1987). The special merit involved the significant benefits which the fences provided to the community. The retention of the fences continues to provide special merit, and thus a hearing is required by the Historic Act.

Additionally, it came to our attention only last month, that the Historic Preservation Review Board ("Historic Board"), on December 13, 1989, held a public hearing concerning the removal of the safety fences and shortly thereafter recommended removal. However, this hearing was never publicly noticed in the District of Columbia Register and the members of the Committee were never made aware of this hearing and its subject matter. Thus, opponents of the removal were not given the opportunity to provide input for the Historic Board's recommendation decision.

The Historic Act specifically requires that an application such as the one in question, after being noticed, be referred to the Historic Board for a recommendation. D.C. Code Ann. § 5-1005(b). Here, such a recommendation was given prior to the filing of the application. The Committee believes that a proper referral has yet to be made. We respectfully request that, in accordance with the statutory requirements, the Historic Board consider its recommendation anew, and hold a hearing and give all interests the opportunity to participate.

If you have any questions, please do not hesitate to call.

Sincerely,

Richard A. Glick
William E. Vincent

Counsel for the Committee
for Public Safety at the
Duke Ellington Bridge

The District of Columbia government has failed to follow proper procedures required by its own laws in its efforts to remove the safety fences at the Ellington Bridge.

- The Historic Landmark and Historic District Protection Act requires that an application to remove the fences be publicly noticed prior to a recommendation from the Historic Preservation Review Board ("HPRB"). D.C. Code § 5-1005(a)-(b). Here the HPRB met and issued a recommendation almost two months prior to the notice of the application to remove the fences.

- The HPRB is only empowered to recommend whether the removal of the fences is consistent with the historical landmark integrity of the Bridge. The HPRB is not the decisionmaker on the removal of the fences. Instead, the Mayor must find, following completion of the procedures, whether the removal of the fences is "necessary in the public interest." D.C. Code § 5-1005(f). The Mayor has never issued such a finding. The HPRB in 1987 had recommended against retention of the fences, but instead their recommendation failed to prevail in the Mayor's Agent proceeding.

- The Mayor before making a determination as to whether the removal of the fences is necessary in the public interest, is required to hold a hearing before the Mayor's Agent if a claim of special merit is made or

the Mayor believes it is appropriate. D.C. Code § 5-1005(e). On April 13, the Committee for Public Safety made a request for a hearing before the Mayor's Agent on the basis that the fences present a case of special merit, as had been found by the Mayor's Agent in 1987. No action has ever been taken on this request.

- **The December 13 meeting of the HPRB was noticed in the District Register, but no topic of discussion was included in the notice. Steven J. Raiche of the District's Historic Preservation Division sent out notices to people on a mailing list for this subject. Neither Ben Read, nor any other member of the Committee for Public Safety was on this mailing list, despite their activity on this issue over the last several years.**

LETTER FROM CHRISTOPHER G. HOGE, CROWLEY, HOGE & FEIN, P.C.

July 18, 1990

Rep. Julian Dixon
2400 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515-0528

Re: Duke Ellington Bridge

Dear Rep. Dixon:

As an attorney who has been involved with the Duke Ellington Bridge issue here in Washington over the past 4 1/2 years, I thought it might be helpful if I were to sum up briefly for you the legal "state of play" as the Appropriations Committee considers the issue of whether the so-called "suicide barriers" may be removed as Mayor Barry has proposed.

I am one of the attorneys who represented various civic associations, Advisory Neighborhood Commission members and city-wide organizations which have sought alternatives to these barriers for suicide prevention. Although I have been an advocate, I will attempt to lay out this legal analysis as objectively as possible.

During construction of the barriers in January, 1986, I filed suit on behalf of a number of plaintiffs who argued that the construction was taking place illegally. Specifically we contended that the barrier plan had been approved by the Department of Public Works without first seeking community input required under the Advisory Neighborhood Commissions Act, D.C. Code Section 1-261 (1981 ed.), or receiving the comments of the Historic Preservation Review Board, as required by the Historic Landmark and Historic District Protection Act, D.C. Code Section 5-1001, et seq. In that case, Josephine Butler, et al. v. District of Columbia Department of Public Works, et al., Civil Action No. 84-86, Superior Court of the District of Columbia, Judge Ronald P. Wertheim on March 27, 1987, found in my clients' favor and ordered that DPW, because it had failed to go through the requisite procedures for obtaining a permit to build the barriers, must apply for a permit to retain the barriers. In so doing, DPW was ordered to: (1) seek "great weight comment" from the affected Advisory Neighborhood Commissions; (2) seek recommendations from the District's Historic Preservation Review Board (HPRB); and (3) if the recommendation of the HPRB were against retention of the barriers, to hold a public hearing before the Mayor's Agent to determine whether "retention of the barriers is necessary in the public interest".

In April and May, 1987, a Town Meeting was held on the bridge issue and the three primarily affected Advisory Neighborhood Commissions (ANC's), namely, ANC 1-C, 1-D and 3-C, voted on it. Two of the three ANC's and all of the Town Meeting attendees voted unanimously to recommend removal of the barriers and the substitution of more humane forms of suicide prevention. The third ANC voted 8-1 in favor of the same. As you may know, under District of Columbia law, D.C. Code Section 1-261 (1981 ed.), ANC recommendations are entitled to "great weight" in municipal administrative decision-making.

In addition to these clear indications of the community will, more than 2,400 residents of the bridge area signed petitions seeking removal of the barriers and better mental health services. In October, 1986, the HPRB voted, also unanimously, that the application for a permit to retain the barriers be denied. The District Government then sought approval of the project from the federal Fine Arts Commission (which was not required by Judge Wertheim's Order) and was again unanimously rebuffed.

Under D.C. Code Section 5-1005, if the HPRB recommends against issuance of a permit such as that sought by DPW in this case, the party applying for the permit is entitled to a public hearing before the Mayor's Agent to determine whether the permit is "necessary in the public interest". Such a hearing was held by the Mayor's Agent in July, 1987. In her ruling dated August 20, 1987, the Mayor's Agent found in favor of the DPW and ordered that the permit to retain the barriers be issued despite the strong opposition of the HPRB and the affected ANC's. In her ruling, the Mayor's Agent specifically noted that she had not been presented with any information concerning the technical feasibility or projected costs for alternatives to the barriers.

Shortly after the Mayor's Agent's ruling, a Citizens' Committee for the Ellington and Taft Bridges was formed. The Committee held a public competition for alternatives to the Ellington Bridge barriers. This competition was widely publicized and resulted in a wide variety of alternative designs being submitted. These alternatives were then judged by a panel which included a psychiatrist, the director of a suicide intervention service, an architect, an engineer, and representatives of the three neighborhoods adjoining the bridge. Duke Ellington's son, Mercer Ellington, served as Honorary Chairman of the panel. A winning design was nominated and presented to an open, well-publicized community workshop, which wholeheartedly endorsed it.

The winning design included a compromise on the barriers, removing the existing barriers, raising the existing handrails higher, and installing metal spikes to discourage sitting or climbing on the bridge. The design also called for installation of suicide "hotline" phones to provide direct human intervention for potential suicide victims. Most importantly, the design called for a number of steps to change the image of the bridge to be a true memorial to Duke Ellington and his music. Sidewalks were to be widened, memorial plaques, banners and a sound system installed, and jazz festivals to be held.

This design was presented to the three affected ANC's and unanimously approved by them. A series of meetings were held with the Mayor. All of these meetings included the leading proponent of the barriers, and/or his family, who had an ample opportunity to present his point of view. One Town Meeting in the Adams Morgan neighborhood attracted more than 200 attendees, including Mayor Barry and several City Councilmembers, and lasted more than four hours. All sides and points of view on this issue were fully aired.

On the basis of this community input, the Mayor accepted the Community's alternative and presented it, with the city's reasons for accepting it, to the HPRB. The HPRB unanimously endorsed the proposal. Thus, the lack of a feasible alternative to the barriers, relied upon by the Mayor's Agent in her decision to allow their retention, was solved by the community, and its solution was wholeheartedly endorsed by the Mayor, the ANC's and the HPRB.

The key legal point to keep in mind here is that, in light of the Mayor's endorsement of the alternative plan and of the HPRB's unanimous recommendation in favor of it, D.C. Code Section 5-1005(e) would require a public hearing in order to deviate from the plan. However, the District of Columbia Government seeks no such deviation from the plan; indeed, it presented and endorsed the solution the HPRB voted for. The proponents of retaining the existing barriers have no standing to seek a public hearing because they have not applied for a permit and they failed to present any evidence before the HPRB. Nevertheless, they ask Congress to order such a hearing anyway. There is no basis in the law of the District of Columbia for a Mayor's Agent's hearing under these circumstances. Congress is being asked not only to overturn the substance of a democratically decided public policy, but also to violate the underlying law which led to the decision.

Congress should also be aware that the D. C. City Council recently rebuffed a similar effort by the barrier proponents. In April of this year, a committee of the Council voted 4-1 against rescinding appropriations for the barrier project, and the full Council refused to take up the issue, despite an intense round of lobbying by a group favoring the existing barriers. Most of the Councilmembers are on record in favor of the community-proposed alternative to the barriers.

Not only would ordering another Mayor's Agent's hearing under these circumstances open the door to endless entreaties to Congress to overturn local administrative decisions, but such a rehearing is also clearly unnecessary. This issue has gone through at least ten public meetings, at which evidence was presented and both sides were represented, since the 1987 Mayor's Agent's hearing! It is hard for me to view this current lobbying of Congress to turn back the clock to 1987 as anything other than dilatory tactics by individuals who did not prevail in an entirely open and above-board process.

The implications for "Home Rule" in the District of Columbia if Congress intervenes in so inherently local an issue are obvious and I will not dwell on them, except to note that literally dozens of elected officials in the District of Columbia have taken a public stand on this issue, and that stand is overwhelmingly in favor of the barrier alternative.

Finally, I should note that I am troubled by the language Congress enacted in May, in the Dire Supplemental Appropriations Act, prohibiting the erection of the barrier alternative. The phrase "this Act or any other Act" (p. 82 of the accompanying Report) might be construed as binding the District Government to the prohibition even after the Dire Supplemental Appropriations Act has expired. To eliminate any confusion on this point, I would strongly recommend that the Committee explicitly repeal this entire Amendment in the FY 1991 Appropriations Act for the District of Columbia.

I understand that the Mayor has provided the House and Senate with a detailed letter explaining the city's reasoning on this issue. I trust that letter will set this matter to rest.

I hope that these points have proved helpful to you and the Committee. I would be happy to respond personally or in writing to any further questions you may have.

Sincerely,

Christopher G. Hoge

CONCLUSION OF HEARINGS ON FISCAL YEAR 1991 D.C. BUDGET

Mr. DIXON. This concludes our hearings on the city's budget for fiscal year 1991.

I want to thank all of our subcommittee members for their participation and assistance during these hearings, especially our ranking member, Dean Gallo from New Jersey.

Mr. GALLO. Thank you, Mr. Chairman.

Mr. DIXON. We want to thank all of the District officials for their testimony and cooperation during these hearings. We realize these are rather difficult times down at the District Building but there are a lot of outstanding public servants working for the District government. Starting with the city administrator, Carol Thompson all the way down to the person who turns the lights off at night after everyone has gone home. They are not only competent and capable but also dedicated to mailing sure this government continues to serve the residents and visitors and others who come to this city. What makes this city, and in fact any city, are the people who live and work here. They are far more important than their elected officials.

RECOGNITION OF MRS. MARY PORTER

I want to especially single out Mrs. Mary Porter who has been keeping the numbers straight for us for many years—long before I became chairman. Mary told us she will be eligible to retire shortly. I certainly hope she doesn't do that, at least not for a few more years. And I am not the only one who feels that way. Mary can always be counted on—she knows what she is doing and is loyal and dependable. I know there have been many nights when she has stayed until 3 or 4 in the morning to get things done.

Mary, we want you to know that we appreciate all of your hard work and look forward to working with you for at least a few more years.

COMMITTEE SCHEDULE

It is my understanding that the leadership wants us to mark up this bill sometime within the next few weeks so that it can be considered on the House floor before the August recess. We don't have a specific date yet.

DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 1991

THURSDAY, JUNE 28, 1990

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, DC.

The subcommittee met at 10:20 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Brock Adams (chairman) presiding.

Present: Senators Adams and Kerrey.

DISTRICT OF COLUMBIA

Board of Education

STATEMENT OF HON. NATE BUSH, PRESIDENT

ACCOMPANIED BY:
- **KAREN SHOOK, AT LARGE MEMBER**
- **DR. WILMA HARVEY, WARD 1 REPRESENTATIVE**
- **ERIKA LANDBERG, WARD 3 REPRESENTATIVE**
- **BOB BOYD, WARD 6 REPRESENTATIVE**
- **ANGIE CORLEY, WARD 5 REPRESENTATIVE**

OPENING REMARKS

Senator Adams. The subcommittee will come to order.

The chairman apologizes to all of you. We just simply have had too many meetings and we are trying to do too many appropriation things all at the same time, but we did want to give everyone an opportunity to testify, particularly those involved in specific parts of the District government before we actually are on the floor with these bills. The bills are now going to start to come in a flood and that is why we are holding them early here and Representative Dixon is on the other side also.

But, as I say, I apologize because it does run into a number of other committees all at the same time, but we are grateful for your being here.

I want to recognize Councilwoman Hilda Mason, the chairperson of the District Council's Education Committee is here. We are very pleased that she would join us this morning for this hearing.

I consider this a very important hearing and, as many of you know, I was involved in the original drafting of the home rule charter and the relationship between the school board or council and the District government was one of the most difficult we faced at that time.

So I do not want any of you to shift blame over to all of us in the history of the past for what happened because it was a compromise and compromises are always of such results. I say that, so that you do not all feel that you are faced with somebody who has a closed mind and unfortunately not a closed mouth.

So with that, I will start the official part of the hearing.

This morning, the committee concludes its first set of hearings on the fiscal year 1991 D.C. budget with testimony from representatives of the board of education and public schools.

We are also pleased to have witnesses representing the Committee on Public Education and Parents United with us this morning. They will testify after our first panel has completed.

After taking office, Dr. Jenkins requested that the Federal City Council conduct an independent assessment of the D.C. public schools and to develop a long-range plan to improve them.

This request resulted in the creation of the Committee on Public Education, which discussed its report 1 year ago this month. Their recommendations frame much of the discussion on school funding that we will discuss this morning.

We also expect to discuss the revelation last March that the District schools had 7,000 fewer students than had been previously acknowledged. These types of revelations are not helpful at a time when schools and its friends are seeking additional funds from both the city government and the Congress to improve the system.

We expect to hear how the delay in informing the council and the Congress came about and what steps have been taken to ensure that it will not happen again.

With that introduction, I would ordinarily yield to the other members of the subcommittee to make opening remarks. They are, most of them, in the economic summit this morning, or sort of rotating through that and, therefore, their statements will appear in the record immediately following mine and I hope that that meeting will break up so they can attend because several of them, particularly former Governor Kerrey of Nebraska, are very interested in the public schools and in particular programs with them, as is Senator Gramm.

So with that statement, Mr. Bush, we would be pleased to hear your statement, followed by Dr. Jenkins and whichever of you wishes, I would appreciate your introducing those who are at the table with you simply for the convenience of the Chair so that if someone speaks I will have some idea of who is addressing the Chair.

With that, Dr. Bush, if you wish to start, I would appreciate it.

OPENING STATEMENT OF PRESIDENT OF BOARD OF EDUCATION, NATE BUSH

Mr. BUSH. Thank you very much, Senator Adams. I am very pleased to be with you this morning.

For the record, my name is Nate Bush. I am president of the board of education. Also, joining me are several members of the board of education. To my immediate left, Mrs. Karen Shook, an at large member of the board of education; Dr. Wilma Harvey, the ward 1 representative on the board of education; Mrs. Erika Landberg, the ward 3 representative on the board of education; and Mr. Bob Boyd, the ward 6 representative on the board of education.

I have a very short statement that I would like to read and I will proceed with the statement.

Senator ADAMS. If you wish, I will put your statement in the record in full and you may summarize, but you may proceed anyway you wish, Dr. Bush.

Mr. BUSH. Well, then I will summarize, Senator Adams.

Senator ADAMS. Without objection, your entire statement will appear in the record as though given and please proceed.

Mr. BUSH. Very good.

As you know, the District has fallen on many difficult times and moreover I feel that there is a hesitancy on the part of some Members of Congress to provide additional funding to a city currently facing so many formidable problems.

Therefore, I come before you today to ask that you set aside for the moment the District's difficulties and concentrate instead on the pressing needs of the city's youth; needs which cannot be adequately addressed without substantial infusions of funds into the board of education's budget.

I readily acknowledge that the board, like the District, has had problems as evidenced by our most recent miscalculation of our school enrollment. However, on this subject I wish to point out to you a couple of very important points.

One, when we became aware of the error the board immediately took steps to notify those persons who were involved in the budget process. We provided information to the Mayor's office, as well as to the City Council.

Internally we specifically moved to not only have an internal audit of the problems associated with the development of the enrollment problems, but also, initiated a process for an external audit. That audit currently now is underway in the school system, Senator Adams.

Moreover, I wish to emphasize that the board has shown a similar willingness to effect cost-savings measures necessary to ensure that the school system is run in an efficient and economic manner.

Perhaps most notably in this regard has been the board's recent vote to close seven of its schools and to move forward to consider an eighth school.

Clearly we have had difficulties with unpopular decisions, but the board is committed to the premise that we must make very important and difficult decisions to move forward to provide the financial security for our school system.

The board is willing to make painful determinations in order to ensure that the resources are used in a wise and efficient manner.

Toward this same end, the board has moved to reduce the size of its central administration in an effort to provide more direct services to our students as well as to improve the procurement procedures that will be established through school based management in a number of our schools.

We have also entered into several mutually beneficial partnerships with the private sector through which we have contracted out for certain services which can be provided to our students by outside entities.

In short, the board has done all that it can to see that our students benefit to the greatest extent possible for funds provided to the school system.

Moreover, we have not been given sufficient moneys with which to address many of the urgent needs that confront our students.

Our needs for increased funding for the D.C. public schools reflect in a couple of areas, Senator Adams. First, we are asking that this committee support the improvement of the $526,684,000 budget which has been approved by both the council and the Mayor, but also, we are requesting a special initiative in the amount of $47,700,000 for funding earmarked for pay raises for our employees, for building repair and maintenance, for extracurricular activities, and the expansion of our early childhood programs.

Our need for increased funding for D.C. public school pay raises is clearly as the maximum and minimum teacher and principal salaries are now the lowest in the metropolitan area.

Just as clear as our need for additional moneys to be used to repair and renovate our aging building inventory, with $150 million in deferred maintenance, the school system has much work to be done in this regard.

The Mayor and the council join us in recognizing the need to fix and repair our buildings, but we have not had sufficient funding to do an adequate job to provide the kind of environment that is an encouragement to educating our young people.

We realize that such a large budget does not come without a price, that is accountability to the citizens who will rightfully expect improved services to result from this sizable infusion of funds.

PREPARED STATEMENT

Therefore, I assure that given such funding, we will spend it well and I thank you for this opportunity to speak briefly to the concerns, Senator Adams.

[The statement follows:]

STATEMENT OF NATE BUSH

GOOD MORNING, CHAIRMAN ADAMS AND OTHER MEMBERS OF THE SUBCOMMITTEE. I AM NATE BUSH, PRESIDENT OF THE BOARD OF EDUCATION OF THE DISTRICT OF COLUMBIA. I AM PLEASED TO COME BEFORE YOU THIS MORNING TO ADDRESS THE SCHOOL SYSTEM'S FY 1991 BUDGET REQUEST.

AFTER I PRESENT MY STATEMENT, DR. JENKINS, SUPERINTENDENT OF THE D.C. PUBLIC SCHOOLS, WILL DESCRIBE IN SOME DETAIL WHAT WE HAVE BEEN ABLE TO DO WITH OUR PREVIOUS YEARS' FUNDING AS WELL AS THE ACHIEVEMENTS THAT WE HOPE TO ACCOMPLISH WITH THE ADDITIONAL MONIES WE ARE REQUESTING FOR FY 1991. FIRST, HOWEVER, I WOULD LIKE TO SPEAK BRIEFLY OF THE GREAT NEED FOR YOUR SUPPORT OF INCREASED RESOURCES FOR THE EDUCATION OF THE CHILDREN OF THE DISTRICT OF COLUMBIA.

AS YOU KNOW, THESE ARE DIFFICULT TIMES FOR THE DISTRICT. MOREOVER, I FEAR THAT THERE IS A HESITANCE ON THE PART OF THE CONGRESS TO PROVIDE ADDITIONAL FUNDING TO A CITY CURRENTLY FACING SO MANY FORMIDABLE PROBLEMS. THEREFORE, I COME BEFORE YOU TODAY TO ASK THAT YOU SET ASIDE, FOR THE MOMENT, THE DISTRICT'S DIFFICULTIES AND CONCENTRATE INSTEAD ON THE PRESSING NEEDS OF THE CITY'S YOUTH, NEEDS WHICH CANNOT BE ADEQUATELY ADDRESSED WITHOUT SUBSTANTIAL INFUSIONS OF FUNDING INTO THE BOARD OF EDUCATION'S BUDGET.

I READILY ACKNOWLEDGE THAT THE BOARD, LIKE THE DISTRICT, HAS HAD PROBLEMS, AS EVIDENCED BY OUR RECENT MISCALCULATION OF OUR SCHOOL ENROLLMENT. HOWEVER, ON THIS SUBJECT I DO WISH TO POINT OUT THAT, WHEN MADE AWARE OF THIS ERROR, THE BOARD IMMEDIATELY TOOK THE INITIATIVE TO RECTIFY THIS SITUATION. SPECIFICALLY, WE MOVED EXPEDITIOUSLY NOT ONLY TO INFORM ALL CONCERNED PARTIES OF THIS MISCALCULATION, BUT ALSO TO COMMISSION BOTH AN INTERNAL AND AN EXTERNAL AUDIT ON THIS SUBJECT IN ORDER TO DETERMINE THE REASONS FOR OUR ERRORS.

MOREOVER, I WISH TO EMPHASIZE THAT THE BOARD HAS SHOWN A SIMILAR WILLINGNESS TO EFFECT THE COST-SAVINGS MEASURES NECESSARY TO ENSURE THAT THE SCHOOL SYSTEM IS RUN AS EFFICIENTLY AND ECONOMICALLY AS POSSIBLE IN THESE TIMES OF FISCAL AUSTERITY IN THE DISTRICT. PERHAPS MOST NOTABLE IN THIS REGARD HAS BEEN THE BOARD'S RECENT VOTE TO CLOSE SEVEN OF ITS SCHOOLS AND TO PROPOSE THE CLOSING OF AN EIGHTH FACILITY. CLEARLY, THIS WAS A VERY DIFFICULT AND UNPOPULAR DECISION. HOWEVER, THE BOARD WAS WILLING TO MAKE THIS PAINFUL DETERMINATION IN ORDER TO ENSURE THAT BOARD RESOURCES ARE USED AS WISELY AND EFFECTIVELY AS POSSIBLE.

TOWARD THIS SAME END, THE BOARD HAS MOVED TO REDUCE THE SIZE OF THE SCHOOL SYSTEM'S ADMINISTRATION, IN AN EFFORT TO PROVIDE MORE DIRECT SERVICES TO OUR STUDENTS, AS WELL AS TO IMPROVE THE D.C. PUBLIC SCHOOLS' PROCUREMENT PROCEDURES THROUGH THE ESTABLISHMENT OF SCHOOL-BASED MANAGEMENT IN A NUMBER OF OUR SCHOOLS. WE HAVE ALSO ENTERED INTO SEVERAL MUTUALLY BENEFICIAL PARTNERSHIPS WITH THE PRIVATE SECTOR THROUGH WHICH WE HAVE CONTRACTED OUT FOR CERTAIN SERVICES WHICH CAN BEST BE PROVIDED TO OUR STUDENTS BY OUTSIDE ENTITIES.

IN SHORT, THE BOARD HAS DONE ALL THAT IT CAN TO SEE THAT OUR STUDENTS BENEFIT TO THE GREATEST EXTENT POSSIBLE FROM FUNDS PROVIDED TO US. HOWEVER, WE HAVE NOT BEEN GIVEN SUFFICIENT MONIES WITH WHICH TO ADDRESS THE MANY URGENT NEEDS OF OUR YOUNG PEOPLE.

FOR THIS REASON I COME BEFORE YOU TODAY TO REQUEST YOUR APPROVAL OF NOT ONLY THE PROPOSED BOARD OF EDUCATION FY 1991 BUDGET OF $526,684,000, APPROVED BY THE COUNCIL AND THE MAYOR, BUT ALSO A $47,700,000 SPECIAL FEDERAL APPROPRIATION EARMARKED FOR D.C. PUBLIC SCHOOL PAY RAISES, BUILDING REPAIR AND MAINTENANCE, EXTRA-CURRICULAR ACTIVITIES, AND EXPANSION OF OUR EARLY CHILDHOOD PROGRAM. I WOULD ALSO ASK THAT THE CONGRESS COMMIT TO APPROVING ADDITIONAL SPECIAL FEDERAL APPROPRIATIONS FOR THESE SAME PURPOSES IN FISCAL YEARS 1992, 1993 AND 1994.

OUR NEED FOR A SPECIAL FEDERAL APPROPRIATION FOR D.C. PUBLIC SCHOOL PAY RAISES IS CLEAR, AS OUR MINIMUM AND MAXIMUM TEACHER AND PRINCIPAL SALARIES ARE NOW THE LOWEST IN THE METROPOLITAN AREA. AS IT IS GENERALLY AGREED THAT WORKING IN THE CITY IS MORE DEMANDING THAN WORKING IN THE SUBURBS, THIS MEANS THAT WE ARE FORCED TO RECRUIT FOR THE HARDEST-TO-FILL INSTRUCTIONAL AND ADMINISTRATIVE POSITIONS ARMED WITH THE LOWEST SALARIES IN THE AREA.

JUST AS CLEAR IS OUR NEED FOR A SPECIAL FEDERAL APPROPRIATION TO BE USED TO REPAIR AND RENOVATE OUR AGING BUILDING INVENTORY, WITH $150 MILLION IN DEFERRED MAINTENANCE, THE SCHOOL SYSTEM HAS MUCH WORK TO DO IN THIS REGARD, WORK REQUIRING MORE MONIES THAN ARE INCLUDED IN THE BUDGET, APPROVED BY THE MAYOR AND COUNCIL WHICH IS BEFORE YOU TODAY. SIMILARLY, WE MUST HAVE A SPECIAL FEDERAL APPROPRIATION IF WE ARE TO ESTABLISH HIGH-QUALITY EXTRA-CURRICULAR ACTIVITIES AND TO PROVIDE ALL OF THE DISTRICT'S YOUNGEST CITIZENS WITH WORTHWHILE EARLY CHILDHOOD EDUCATIONAL PROGRAMS.

GIVEN THE INCREASED FUNDING THAT WE ARE REQUESTING, INCLUSIVE OF THE SPECIAL FEDERAL APPROPRIATION, WE WILL BE ABLE TO MORE ADEQUATELY COMPENSATE OUR VERY DESERVING TEACHERS AND PRINCIPALS AND TO PROVIDE ADDITIONAL SERVICES TO THOSE PRESCHOOL, HANDICAPPED AND HOMELESS CHILDREN WHO NEED EXTRA HELP. WITH THIS LEVEL OF FUNDING, WE WILL BE ABLE TO IMPROVE OUR SCIENCE AND ENGLISH INSTRUCTION, AS WELL AS OUR EXTRA-CURRICULAR PROGRAM, AND TO INCREASE THE INDIVIDUALIZED ATTENTION THAT OUR STUDENTS RECEIVE FROM TEACHERS, COUNSELLORS AND INSTRUCTIONAL AIDES. MOREOVER, WITH THESE MONIES, WE CAN ENSURE THAT THEY RECEIVE THIS PERSONALIZED INSTRUCTION AND GUIDANCE IN SAFE AND WELL-MAINTAINED SCHOOL ENVIRONMENTS.

WE REALIZE THAT SUCH A LARGE BUDGET DOES NOT COME WITHOUT A PRICE — THAT IS, ACCOUNTABILITY TO THE CITIZENRY WHO WILL RIGHTFULLY EXPECT IMPROVED SERVICES TO RESULT FROM THIS SIZEABLE INFUSION OF FUNDS. THEREFORE, I ASSURE YOU THAT, GIVEN SUCH FUNDING, WE WILL SPEND IT WELL.

I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF THE BOARD'S FY 1991 BUDGET REQUEST. I WELCOME ANY QUESTIONS THAT YOU MIGHT HAVE EITHER NOW OR AT THE CONCLUSION OF DR. JENKINS' TESTIMONY.

DISPOSITION OF PROCEEDS FROM THE SALE OF SCHOOL BUILDINGS

Senator ADAMS. I will hold most of my questions until after we have heard Dr. Jenkins' testimony, but I have one that I would like to ask now so that you and the other members of the board can be thinking about it and then I will come back to it after his testimony and by then maybe you can talk with one another.

I understand the board has a position that vacant school buildings should be leased rather than sold. Would that position be different if you were assured that the proceeds from the sale of these assets would be available for educational purposes?

And I mention that because, of course, you are asking for a substantial additional amount of money now and in later years for what has been a shrinking school population.

So I will give you some time to think about that and at this point will then turn to Dr. Jenkins and then I will be back for questions to everybody.

Dr. Jenkins, welcome. We are pleased to have you with us.

D.C. PUBLIC SCHOOLS

STATEMENT OF DR. ANDREW E. JENKINS III, SUPERINTENDENT

SUMMARY STATEMENT

Dr. JENKINS. Thank you very much, Chairman Adams.

Good morning, Chairman Adams, members of staff, our supporters, and other attendees.

I am Andrew E. Jenkins, III, superintendent of the D.C. public schools. It is my pleasure to come before you today in support of the system's fiscal year 1991 budget request.

In a moment, I will describe this budget request in some detail and explain our need for requested increases in fiscal year 1991.

First, however, I would like to highlight a few of the accomplishments that we have had with the 1990 budget and also achievements in recent years.

School year 1988–89, and the present school year have been very good ones for the D.C. public schools. During school year 1988–89, overall student achievement in the annual comprehensive tests of basic skills was substantially improved.

Moreover, in school year 1989–90, the SAT scores of our minority students also increased. In addition, the amount of scholarships and other awards received by our graduates reached $14 million in school year 1988–89.

In terms of central administration, in school year 1988–89, we initiated a complete reorganization of the administrative structure of the school system. As part of this effort, during school year 1988-90, we established school-based management authority in 17 of our schools and began a downsizing effort through which 68 central administration employees were reassigned to local schools and 150 central administrative positions have been identified for elimination from the school system effective July 15, 1990.

These efforts began as a result of recommendations of the Committee on Public Education, which completed a comprehensive assessment of our school system last June. Other COPE proposals already in progress include recommendations to improve the early childhood education program and to lengthen both the school day and the school year.

Despite these recent improvements, we know that we cannot now rest on our laurels, content with the progress that we have made and unwilling to undertake new challenges. Rather, we are all too aware that our dropout rate is still far too high and our student achievement level too low; that too many of our students are involved with drugs and violence, and that all too often our children are being asked to learn in dilapidated buildings which are anything but conducive to learning.

It is for all of these reasons that we come before you this morning to request that you support not only full funding for the $526,000,000 board of education budget approved by the council and the Mayor, but, also, a $47 million special appropriations earmarked to go to the D.C. public schools for pay raises, building repair and maintenance, improvement of our athletic program and other extracurricular activities, and also expansion of our early childhood education program.

We urge you to approve such increased Federal funding for employee pay raises because we believe strongly that the key to a quality education is first rate school personnel. Our present efforts to build an outstanding teacher force are hampered because DCPS teachers' salaries remain among the lowest in the area.

We similarly ask that you support increased Federal funding earmarked for D.C. public school repair and maintenance so that we can begin to make substantial inroads into the school system's $150 million backlog of deferred maintenance.

Additional Federal funding for our athletic program and extracurricular activities is equally critical if we are to provide our students with worthwhile activities in which to participate during nonschool hours.

Similarly, increased Federal funding is needed for expansion of our early childhood education program, if we are to provide the District's youngest citizens with the early intervention services which are so critical to their future academic success.

We also urge your support for full funding of the $526 million board of education budget, approved by the council and the Mayor, which contains funds for a number of dropout prevention measures designed to reduce our unacceptably high dropout rate.

Because our studies have shown that lack of interest is a major cause of students' failure to graduate, our requested budget for fiscal year 1991 includes funding for extensive school improvement measures to be implemented at every grade.

In our elementary schools, for instance, additional model elementary science programs will be established, and some of our requested fiscal year 1991 budget will be used both to ensure the equitable allocation of special subject teachers among our elementary schools and to emulate the Comer development model, a program which has been very successful in increasing parental involvement and the provision of social services at the primary level.

On the secondary level some of our fiscal year 1991 budget request will be used to establish junior high schools of distinction, to provide initial funding for state of the art prevocational training programs for those students who may not be college-bound, and for funding two career-focused high school programs.

In addition, because we realize that our special needs students have, in many cases, the greatest risk of dropping out of school, part of our 1991 budget will fund services for these young people including occupational and physical therapy services, supplies and textbooks for special education students.

Other of these funds will be used to lower pupil/teacher ratios in both bilingual and special education classes and to begin to address the needs of children born to drug addicted parents.

Moreover, as we are aware that far too many of our students are exposed to and, in some cases, involved with drugs and violence, we will use part of our requested fiscal year 1991 budget to develop an intensive values and character education program designed to reach all of our students and faculty.

Additionally, some of this funding will go toward enhancing the quality of activities available to students during nonschool hours.

As Mr. Bush has indicated, we know that we will be held fully accountable for the prudent and effective expenditure of this substantial budget increase.

We are also aware that the public scrutiny of our use of this funding may be especially intense in light of questions regarding school system management which have arisen due to errors in our calculation of school enrollment.

In regard to these mistakes, I can assure you that the D.C. public schools have already begun to take steps to rectify this situation and to ensure that such efforts do not occur again.

Specifically, the school system has completed an internal audit of our enrollment calculation process and has started to implement recommendations for improvement contained in this report.

We have also contracted with an external auditor to perform a second review of our procedures in this regard and will take any further action dictated by this report.

Our proposed fiscal year 1991 budget, inclusive of the proposed $47 million special appropriation earmarked for D.C. public school pay raises, building repair and maintenance, athletics and other extracurricular activities, and the expansion of our early childhood program is admittedly an ambitious one.

However, I maintain that we owe our children and the community no less. I ask that you demonstrate your willingness to invest in our children's future by voting for full funding of both the school system's fiscal year 1991 budget, approved by the council and the Mayor, and an additional special appropriation designated to go toward compensating our very deserving educators, improving our dilapidated buildings, providing our students with worthwhile activities outside of school hours, and successfully educating the District's youngest residents.

PREPARED STATEMENT

Thank you for allowing me to testify today about this most important topic. I stand ready to answer any questions that you might have. Thank you very much.

[The statement follows:]

STATEMENT OF ANDREW E. JENKINS III

GOOD MORNING, CHAIRMAN ADAMS AND OTHER MEMBERS OF THE SUBCOMMITTEE. I AM ANDREW E. JENKINS III, SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS. IT IS MY PLEASURE TO COME BEFORE YOU TODAY IN SUPPORT OF THE SCHOOL SYSTEM'S FY 1991 BUDGET REQUEST.

IN A MOMENT, I WILL DESCRIBE THIS BUDGET REQUEST IN SOME DETAIL AND EXPLAIN OUR NEED FOR REQUESTED INCREASES IN FY 1991. FIRST, HOWEVER, I WOULD LIKE TO HIGHLIGHT A FEW OF THE ACCOMPLISHMENTS THAT WE HAVE ACHIEVED WITH OUR BUDGET FUNDING OF RECENT YEARS.

SCHOOL YEAR 1988-1989 AND THE PRESENT SCHOOL YEAR HAVE BEEN VERY GOOD ONES FOR THE D.C. PUBLIC SCHOOLS (DCPS). DURING SY 1988-89, OVERALL STUDENT ACHIEVEMENT IN THE ANNUAL COMPREHENSIVE TESTS OF BASIC SKILLS WAS SUBSTANTIALLY IMPROVED. FOR THE FIRST TIME, STUDENTS SCORED HIGHER IN ALL BUT ONE OF THE FIFTEEN BASIC SKILLS AREAS (ONE AREA REMAINED UNCHANGED) AND ACHIEVED ABOVE THE NATIONAL NORM IN MANY AREAS. MOREOVER, IN SY 1989-90, THE S.A.T. SCORES OF OUR MINORITY STUDENTS ALSO INCREASED.

IN ADDITION, THE NUMBER OF DCPS GRADUATES INDICATING THAT THEY PLANNED TO PURSUE POSTSECONDARY EDUCATION OR TRAINING ROSE FROM 71% IN SCHOOL YEAR 1987-88 TO 75% IN SCHOOL YEAR 1988-89. SIMILARLY, THE AMOUNT OF SCHOLARSHIPS AND OTHER AWARDS RECEIVED BY OUR GRADUATES INCREASED FROM $12 TO $14 MILLION DURING THIS SAME TIME PERIOD. MOREOVER, IN THIS SCHOOL YEAR, TWENTY GRADUATES WITH OUTSTANDING ORAL AND WRITTEN SKILLS RECEIVED SCHOLARSHIPS, WORTH A TOTAL OF $110,000, FROM CARL ROWAN'S PROJECT EXCELLENCE PROGRAM, AND TEN OF OUR SENIORS WERE AWARDED ROBERT C. BYRD SCHOLARSHIPS.

IN TERMS OF CENTRAL ADMINISTRATION, IN SCHOOL YEAR 1988-89, WE INITIATED A COMPLETE REORGANIZATION OF THE ADMINISTRATIVE STRUCTURE OF THE SCHOOL SYSTEM DESIGNED TO BEST MEET THE NEEDS OF THE LOCAL SCHOOLS. AS PART OF THIS EFFORT, DURING SCHOOL YEAR 1989-90, WE ESTABLISHED SCHOOL- BASED MANAGEMENT AUTHORITY IN SEVENTEEN OF OUR SCHOOLS AND BEGAN A DOWNSIZING EFFORT THROUGH WHICH THE NUMBER OF DCPS CENTRAL ADMINISTRATIVE STAFF HAS BEEN REDUCED AND WILL BE FURTHER REDUCED. MORE SPECIFICALLY, LAST FALL, SIXTY-EIGHT CENTRAL ADMINISTRATION EMPLOYEES WERE REASSIGNED TO LOCAL SCHOOLS TO SUPPORT AND ENHANCE THE OPERATION OF THESE SCHOOLS. MOREOVER, ONE HUNDRED AND FIFTY CENTRAL ADMINISTRATIVE POSITIONS HAVE NOW BEEN IDENTIFIED FOR ELIMINATION FROM THE SCHOOL SYSTEM, EFFECTIVE JULY 15, 1990.

THESE EFFORTS BEGAN AS A RESULT OF RECOMMENDATIONS OF THE COMMITTEE ON PUBLIC EDUCATION (COPE) WHICH COMPLETED A COMPREHENSIVE ASSESSMENT OF OUR SCHOOL SYSTEM LAST JUNE. COPE'S RECOMMENDATIONS WERE ADOPTED BY THE BOARD, AND HAVE BEGUN TO BE IMPLEMENTED BY THE ADMINISTRATION. OTHER COPE PROPOSALS ALREADY IN PROGRESS INCLUDE RECOMMENDATIONS TO IMPROVE THE EARLY CHILDHOOD EDUCATION PROGRAM AND TO LENGTHEN BOTH THE SCHOOL DAY AND THE SCHOOL YEAR.

DESPITE THESE RECENT IMPROVEMENTS, WE KNOW THAT WE CANNOT NOW "REST ON OUR LAURELS," CONTENT WITH THE PROGRESS THAT WE HAVE MADE AND UNWILLING TO UNDERTAKE NEW CHALLENGES. RATHER, WE ARE ALL TOO AWARE THAT OUR DROP-OUT RATE IS STILL FAR TOO HIGH AND OUR STUDENT ACHIEVEMENT LEVEL TOO LOW. SIMILARLY, WE CANNOT IGNORE THE FACT THAT TOO MANY OF OUR STUDENTS ARE INVOLVED WITH DRUGS AND VIOLENCE AND THAT ALL TOO OFTEN OUR CHILDREN ARE BEING ASKED TO LEARN IN DILAPIDATED BUILDINGS WHICH ARE ANYTHING BUT CONDUCIVE TO LEARNING. IT IS FOR ALL OF THESE REASONS THAT WE COME BEFORE YOU THIS MORNING TO REQUEST THAT YOU SUPPORT NOT ONLY FULL FUNDING OF THE $526,684,000 BOARD OF EDUCATION BUDGET APPROVED BY THE COUNCIL AND THE MAYOR, BUT ALSO A SPECIAL FEDERAL APPROPRIATION OF $47,730,000 TO FUND PHASE ONE OF A SPECIAL FOUR-YEAR EDUCATION INITIATIVE DESIGNED TO INCREASE D.C. PUBLIC SCHOOL TEACHER AND PRINCIPAL SALARIES, REPAIR AND REHABILITATE OUR SCHOOL BUILDINGS, IMPROVE THE D.C. PUBLIC SCHOOLS' ATHLETIC PROGRAM AND EXTRA-CURRICULAR ACTIVITIES, AND EXPAND OUR EARLY CHILDHOOD PROGRAMS.

WE URGE YOU TO APPROVE SUCH A SPECIAL FEDERAL APPROPRIATION FOR EMPLOYEE PAY RAISES BECAUSE WE BELIEVE STRONGLY THAT THE KEY TO A QUALITY EDUCATION IS FIRST-RATE SCHOOL PERSONNEL. PRESENTLY, OUR EFFORTS TO BUILD AN OUTSTANDING TEACHING FORCE ARE HAMPERED BECAUSE D.C. PUBLIC SCHOOL TEACHER SALARIES REMAIN AMONG THE LOWEST IN THE AREA. THUS, THE MONEY FOR PAY INCREASES WHICH WE ARE REQUESTING TODAY IS ESSENTIAL IF WE ARE TO CONTINUE TO RECRUIT AND RETAIN TOP-NOTCH EDUCATORS.

WE SIMILARLY ASK THAT YOU SUPPORT A SPECIAL FEDERAL APPROPRIATION EARMARKED FOR D.C. PUBLIC SCHOOL REPAIR AND MAINTENANCE SO THAT WE CAN BEGIN TO MAKE SUBSTANTIAL INROADS INTO THE SCHOOL SYSTEM'S BACKLOG OF DEFERRED MAINTENANCE. ACCORDING TO COPE, ELIMINATION OF THIS BACKLOG WILL COST APPROXIMATELY $150 MILLION. THEREFORE, ONLY WITH SUBSTANTIAL INFUSIONS OF FUNDING DESIGNATED TO GO TOWARD BUILDING REHABILITATION CAN WE HOPE TO MAKE OUR SCHOOLS THE SAFE AND ATTRACTIVE STRUCTURES, CONDUCIVE TO LEARNING, WHICH OUR STUDENTS NEED AND DESERVE.

A SPECIAL FEDERAL APPROPRIATION FOR OUR ATHLETIC PROGRAM AND EXTRA-CURRICULAR ACTIVITIES IS EQUALLY CRUCIAL IF WE ARE TO PROVIDE OUR STUDENTS WITH WORTHWHILE ACTIVITIES IN WHICH TO PARTICIPATE DURING NON-SCHOOL HOURS. SIMILARLY, WE NEED INCREASED FEDERAL FUNDING FOR EXPANSION OF OUR EARLY CHILDHOOD PROGRAM IF WE ARE TO PROVIDE THE DISTRICT'S YOUNGEST CITIZENS WITH THE EARLY INTERVENTION SERVICES WHICH ARE SO CRITICAL TO THEIR FUTURE ACADEMIC SUCCESS.

WE ALSO URGE YOUR SUPPORT FOR FULL FUNDING OF THE $526,684,000 BOARD OF EDUCATION BUDGET, APPROVED BY THE COUNCIL AND THE MAYOR, WHICH CONTAINS FUNDS FOR A NUMBER OF DROP-OUT PREVENTION MEASURES DESIGNED TO REDUCE OUR UNACCEPTABLY HIGH DROP-OUT RATE. $800,000 OF THIS BUDGET IS SPECIFICALLY EARMARKED FOR A DROP-OUT PREVENTION INITIATIVE. MOREOVER, BECAUSE OUR STUDIES HAVE SHOWN THAT LACK OF INTEREST IS A MAJOR CAUSE OF STUDENTS' FAILURE TO GRADUATE, OUR REQUESTED BUDGET FOR FY 1991 INCLUDES FUNDING FOR EXTENSIVE SCHOOL IMPROVEMENT MEASURES TO BE IMPLEMENTED AT EVERY GRADE LEVEL.

IN OUR ELEMENTARY SCHOOLS, FOR INSTANCE, MODEL ELEMENTARY SCIENCE PROGRAMS WILL BE ESTABLISHED IN THOSE QUADRANTS OF THE CITY WHICH DO NOT YET CONTAIN SUCH PROGRAMS. ADDITIONALLY, SOME OF OUR REQUESTED FY 1991 BUDGET WILL BE USED TO ENSURE THE EQUITABLE ALLOCATION OF "SPECIAL SUBJECT" (I.E. ART, MUSIC, ETC.) TEACHERS AMONG OUR ELEMENTARY SCHOOLS, AS WELL AS TO EMULATE THE "COMER SCHOOL DEVELOPMENT MODEL", A PROGRAM WHICH HAS BEEN VERY SUCCESSFUL IN INCREASING PARENTAL INVOLVEMENT AND THE PROVISION OF SOCIAL SERVICES AT THE PRIMARY LEVEL. MOREOVER, OTHER REQUESTED FUNDS WILL BE UTILIZED TO LOWER THE COUNSELOR/STUDENT RATIO IN OUR ELEMENTARY, JUNIOR AND SENIOR HIGH SCHOOLS.

ON THE SECONDARY LEVEL, SOME OF OUR FY 1991 BUDGET WILL BE USED TO ESTABLISH JUNIOR HIGH "SCHOOLS OF DISTINCTION", OFFERING COMPREHENSIVE PROGRAMS IN COMPUTER SCIENCE AND FOREIGN LANGUAGE, AS WELL AS TO PROVIDE INITIAL FUNDING FOR STATE-OF-THE-ART PRE-VOCATIONAL TRAINING PROGRAMS FOR THOSE STUDENTS WHO MAY NOT BE COLLEGE-BOUND. OTHER MONIES WILL GO TOWARD FUNDING TWO CAREER-FOCUSED HIGH SCHOOL PROGRAMS.

IN ADDITION, BECAUSE WE REALIZE THAT OUR "SPECIAL NEEDS" STUDENTS HAVE, IN MANY CASES, THE GREATEST RISK OF DROPPING OUT OF SCHOOL, PART OF OUR FY 1991 BUDGET WILL FUND PROGRAMS FOR THESE YOUNG PEOPLE. MORE SPECIFICALLY, REQUESTED MONIES WILL BE USED TO FINANCE OCCUPATIONAL AND PHYSICAL THERAPY SERVICES, AND OBTAIN SUPPLIES AND TEXTBOOKS FOR SPECIAL

EDUCATION STUDENTS, AS WELL AS TO LOWER PUPIL/TEACHER RATIOS, IN BOTH BILINGUAL AND SPECIAL EDUCATION CLASSROOMS. WE ALSO WILL USE PART OF THIS FUNDING TO BEGIN TO ADDRESS THE NEEDS OF CHILDREN BORN TO DRUG-ADDICTED PARENTS.

MOREOVER, AS WE ARE AWARE THAT FAR TOO MANY OF OUR STUDENTS ARE EXPOSED TO AND, IN SOME CASES, INVOLVED WITH DRUGS AND VIOLENCE, WE WILL USE PART OF OUR REQUESTED FY 1991 BUDGET FOR MEASURES DESIGNED TO PREVENT STUDENTS' EXPOSURE TO, AND PARTICIPATION IN, SUCH UNDESIRABLE ACTIVITIES. SPECIFICALLY, WE WILL UTILIZE A PORTION TO DEVELOP AN INTENSIVE VALUES AND CHARACTER EDUCATION PROGRAM DESIGNED TO REACH ALL OF OUR STUDENTS AND FACULTY. ADDITIONALLY, SOME OF THIS FUNDING WILL GO TOWARD ENHANCING THE QUALITY OF ACTIVITIES AVAILABLE TO STUDENTS DURING NON-SCHOOL HOURS, THROUGH IMPROVEMENT OF ATHLETIC PROGRAMS AND SUMMER SCHOOL.

AS MR. BUSH HAS INDICATED, WE KNOW THAT WE WILL BE HELD FULLY ACCOUNTABLE FOR THE PRUDENT AND EFFECTIVE EXPENDITURE OF THIS SUBSTANTIAL BUDGET INCREASE. WE ARE ALSO AWARE THAT THE PUBLIC'S SCRUTINY OF OUR USE OF THIS FUNDING MAY BE ESPECIALLY INTENSE IN LIGHT OF QUESTIONS REGARDING SCHOOL SYSTEM MANAGEMENT WHICH HAVE ARISEN DUE TO ERRORS IN OUR CALCULATION OF OUR SCHOOL ENROLLMENT.

IN REGARD TO THESE MISTAKES, I CAN ENSURE YOU THAT THE D.C. PUBLIC SCHOOLS HAS ALREADY BEGUN TO TAKE STEPS TO RECTIFY THIS SITUATION AND TO ENSURE THAT SUCH ERRORS DO NOT OCCUR AGAIN. SPECIFICALLY, THE SCHOOL SYSTEM HAS COMPLETED AN INTERNAL AUDIT OF OUR ENROLLMENT CALCULATION PROCESS AND HAS STARTED TO IMPLEMENT RECOMMENDATIONS FOR IMPROVEMENT CONTAINED IN THIS REPORT. WE HAVE ALSO CONTRACTED WITH AN EXTERNAL AUDITOR TO PERFORM A SECOND REVIEW OF OUR PROCEDURES IN THIS REGARD AND WILL TAKE ANY FURTHER ACTION DICTATED BY THIS REPORT.

OUR PROPOSED FY 1991 BUDGET - - - INCLUSIVE OF THE PROPOSED $47,700,000 SPECIAL FEDERAL APPROPRIATION EARMARKED FOR D.C. PUBLIC SCHOOL PAY RAISES, BUILDING REPAIR AND MAINTENANCE, EXTRA-CURRICULAR ACTIVITIES, AND EARLY CHILDHOOD INTERVENTION - - - IS, ADMITTEDLY, AN AMBITIOUS ONE. HOWEVER, I MAINTAIN THAT WE OWE OUR CHILDREN AND THE COMMUNITY NO LESS. I KNOW THAT YOU AGREE THAT CHILDREN ARE THE MOST PRECIOUS RESOURCE OF THE DISTRICT AND OUR COUNTRY. I ASK THAT YOU DEMONSTRATE YOUR WILLINGNESS TO INVEST IN OUR CHILDREN'S FUTURE BY VOTING FOR FULL FUNDING OF BOTH THE SCHOOL SYSTEM'S FY 1991 BUDGET, APPROVED BY THE COUNCIL AND THE MAYOR, AND A SPECIAL FEDERAL APPROPRIATION DESIGNATED TO GO TOWARD COMPENSATING OUR VERY DESERVING EDUCATORS, IMPROVING OUR

DILAPIDATED BUILDINGS, PROVIDING OUR STUDENTS WITH WORTHWHILE ACTIVITIES DURING NON-SCHOOL HOURS AND EDUCATING THE DISTRICT'S YOUNGEST RESIDENTS. IF GIVEN SUCH FUNDING, WE, IN TURN, ARE PREPARED TO BE HELD FULLY ACCOUNTABLE FOR ITS EFFECTIVE USAGE.

THANK YOU FOR ALLOWING ME TO TESTIFY TODAY ABOUT THIS MOST IMPORTANT ISSUE. I STAND READY TO ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE.

USE OF PROCEEDS FROM THE SALE OF SURPLUS PROPERTY

Senator **Adams**. Thank you, Dr. Jenkins.

I will be prepared to ask you some questions in just a moment. I want to turn first back to Dr. Bush for the question that I had asked him.

What would be your position if these assets were sold, but were made available for additional purposes?

Mr. **Bush**. Currently, Senator Adams, the council has passed legislation which would actually permit the sale of—the receipts from the sale of school buildings to come to the board of education.

However, our concern with that legislation is that while the board of education is required to turn the property over to the city, the Mayor of the District of Columbia has the option to elect to use the school buildings for some other purpose rather than sale and only in the event of sale will those funds actually come to the school system.

So that is a concern for us. But more specifically to your——

Senator **Adams**. If you could solve that problem, would you—because that is really an internal D.C. problem, which, of course, I do not intend to interfere with, but if you could do that, correct that problem so that you would have funds available because one of the problems that we face throughout the Nation is we have shrinking enrollments in urban cities and often those buildings can be well used for other purposes, but we find very often if they are just held for lease purposes they deteriorate badly and are not well used in the process. That is the reason I asked the question.

Mr. **Bush**. Yes; and our view is that we would prefer not to sell buildings, Senator Adams, but to use the leasing—long-term leasing to receive funds on a long term basis for many of those buildings.

Our analysis indicates that in many instances we may be able to receive more moneys for those buildings than we might receive by simply an outright sale of the property.

Plus, we also are sensitive to the fact that while our enrollment currently is on the downswing or maybe even stabilizing, we do not know what the future needs of the D.C. school system might be and we believe that part of our responsibility is to preserve the assets of the school system as we look toward the long-range use.

We give as an example the sumner school project. Sumner was a building belonging to the school system that was deteriorating, but we entered into an agreement with a private developer. The building was completely renovated, restored actually, and in addition to that we contracted for the use of the properties around the building. It was a multiyear contract, a 99-year lease. We receive approximately $1 million a year under that lease. The building was completely restored for several million dollars, and in the long run the entire property will revert back to the school system.

We believe if the property had been sold outright, we would have netted perhaps about $12 to $15 million, but over the period of the life of the lease we will receive almost $100 million, plus the remaining property.

REASONS FOR DECLINE IN ENROLLMENT

Senator **Adams**. I see. That brings me to the question for Dr. Jenkins and you may answer also, of course, Dr. Bush, or other members who wish to look into that and that is, we have this problem of the 7,000 students and you have addressed the fact that you are both externally and internally auditing to determine why it occurred. And not only that, but, of course, our interest is that it not be repeated.

What we are interested in, is your views on why you believe the enrollment declined so rapidly during the 1980's?

Dr. **Jenkins**. Senator Adams, I do believe that the enrollment has had a steady decline since the 1980's and our internal audit does reveal that.

More specifically, however, I think that we have to look to the demographics of our city. It is pretty much documented that we have fewer school-age children in our city and while the in-migration is less, the out-migration is continuing. We have lost quite a few students to the surrounding counties and jurisdictions, particularly Prince Georges County in terms of those families moving out of the District of Columbia.

So I think a combination of fewer school-age children and out-migration has indeed caused that.

Mr. **Bush**. May I simply add, Senator.

Senator **Adams**. Please do.

Mr. **Bush**. A couple of other points. I would first point out that the most recent census clearly indicate that the city itself has lost in its population and we believe that at least in part the loss of the number of students attending the school system is partially reflected in the fact that we have had a dwindling number of people in the city itself.

Second, also, many of our students that were enrolled in the school system for the last 15 years or so were a part of that baby boom population. It is very clear now that many of the families are not having children. As a result of that, fewer of them are matriculating on into our school system.

Nationwide the records seem to be very clear that there is trend toward a loss of population of many of our urban school districts and we believe that we are being impacted by the same problems that impact many of the urban school districts throughout the Nation.

ALTERNATIVE CERTIFICATION PROGRAM FOR TEACHERS

Senator **Adams**. Dr. Jenkins, I have had children in the public schools here and I know that it is difficult to fill teaching positions.

I have a son also who is a teacher. He is not here in the District, but is a teacher. And I know that other jurisdictions are now using a program of alternative certification; in other words, individuals that may not hold a degree in education but have particular skills in both foreign languages, science, mathematics, I know how hard it is to hold science and mathematic teachers at the present time.

Do you have any plans to propose such a program for the school district here?

Dr. **Jenkins**. Certainly, Senator Adams, and indeed, we have started with alternative forms of certification already by making more flexible our certification requirements.

We are appealing to individuals who might view teaching and education as a second career, particularly folks from the governmental and military sectors.

We do plan to develop fully our alternative certification method and we support it wholeheartedly.

Senator **Adams**. You touched on the part that we are going to be shifting to a more peace time economy and we will have a significant number of people returning from the services, many of whom have considerable teaching experience in scientific areas, but probably could not qualify for an education degree as such.

I would like to have you give us a written report if you could later in the year as to your progress on this because I feel, just as you do, that there is a significant need within the District that we strengthen the total curriculum, but in particular, I know that you are having trouble in certain specific areas. If we can tap into these areas, we would like to do so.

Dr. **Jenkins**. I would like to add, Senator, that we will be very pleased to submit a written report. Also, in the vocational and technical areas, I would like to indicate that we have already started with that phase of it.

REDUCING THE NUMBER OF ADMINISTRATIVE POSITIONS

Senator **Adams**. Now one of the criticisms, and either of you can answer this or either of the two spokespersons, one of the criticisms that I face when I present this bill to the full Appropriations Committee and later on the floor, is the question of a very heavy administrative system and the comment is frequently made that we spend more per capita per child in the District of Columbia than in any other city in the United States. I do not know whether that is correct or not, but we are very high in the dollars spent. This then translates to many administrative people.

I read your statement. I listened to your comments on the shifting of people back. Do you feel that you have a downsizing effort of the central office staff and people moving back out into the field? You mentioned also a more decentralized system.

I would like some written material in support of that, if I could, and I will ask the next panel also on that. But it is a significant and continuing criticism and I need a significant answer and I would like to have it both orally and in writing, if you could give it to me.

Dr. **Jenkins**. We would be very pleased to provide that written material to you and to indicate to you also that the downsizing process is a process that is ongoing and continuous and while we have achieved the 68 administrators from central office going back and providing direct services to children, teachers, and to schools, we will achieve the 150 downsizing positions in central administration by July 15.

However, the continuous portion of it will cause us to continue to review positions that can be eliminated from our personnel file. We do plan in the very near future to have our central administration more in line with administrations in the surrounding jurisdictions and across the country. A factor that will certainly impact on that is our move to completely utilize the technology in certain aspects of budget and personnel and finance. As a result, there will be less of a requirement for people and we will be certainly less labor-intensive.

Mr. BUSH. May I simply add, Senator Adams, that the board of education intends to be very aggressive in this area. We are very sensitive to the fact that there is a need to reduce the size of the central administration.

I would simply point out, however, that for the first time in 11 going on 12 years, the board of education now has a plan which was developed by Dr. Jenkins for the reduction in the size of the central administration and in addition to that, we are moving forward to reduce the size of the central administration.

While we have had some reductions already, we believe that this is the beginning of the process and not the end, that for the next couple of years we will continue to look in areas within the central administration and indeed throughout the school system for reduction in our administrative costs to try to ensure that more and more of those dollars will be going directly toward the education of the child.

DECLINE IN STUDENT ENROLLMENT AND ADDITIONAL FUNDING

Senator ADAMS. Well, as you can understand, at least this Senator has very much indicated that always—and I feel this way—that children are our most important resource and we should be spending the funds there.

We have the dichotomy of a request for an additional $47 million beyond what the council allocated topped with a reduction of 7,000 students, which was not accounted for before and in effect a shrinking school system and I am pleased with the results that Dr. Jenkins reported.

We have a real problem of getting additional money and that is the reason I asked those specific questions. When you are having fewer students and you need more money, you have to justify it and I know the committee we are going to hear from next will be doing it, but you are asking for amounts above that.

I might also state to you that if you can determine whether you fit, particularly in what I call latch key program for after school children, or in your athletic programs, your recreational programs that you fit within some of the categories some of us have tried to create in the drug treatment program. I would examine those very carefully and let us know if you are not receiving response from that because I considered that a very important part of what we were trying to put into the drug program as well as stopping the killing on the streets. To be certain that we were utilizing as much as possible the after-school hours, the recreational programs, by that I mean real recreational programs where you have supervised instruction and a number of supervision people there and we have tried to do some funding in that area.

I thank all of you. If there was anyone else that wanted to make a comment from this panel, I am going to the next panel now, but you were all very kind to be here and I appreciate it. If you have anything further you wish to submit to us, please do.

INTRODUCTION OF WARD 5 MEMBER OF BOARD OF EDUCATION

Mr. **Bush**. Senator, I would like for the record to recognize an additional colleague that joined us, Mrs. Angie Corley, the ward 5 representative. Thank you.

Senator **Adams**. Welcome. I am sorry I did not recognize your coming up. We are very pleased to have you with us this morning.

Mrs. **Corley**. Very pleased to represent Northeast Washington, which is very close to this building.

Senator **Adams**. Yes; thank you.

Mr. **Bush**. Senator, may I make one final point?

Senator **Adams**. Yes.

Mr. **Bush**. We are very sensitive to the points that you have made. We would simply like to point out that the board of education's budget was adjusted by the council and ultimately by action of the Senate in response to what appeared to be the difference in our projected enrollment and our actual enrollment. That was $7.8 million this year.

So I believe that the figures that are before you now reflect the adjustments in our enrollment populations.

Senator **Adams**. Be certain that we get a supplemental statement on that attached to your budget so that I can use it.

Mr. **Bush**. Very good. Thank you.

Senator **Adams**. Thank you all very much.

COMMITTEE ON PUBLIC EDUCATION

STATEMENTS OF:

TERRY GOLDEN, COCHAIRMAN

TOGO WEST, MEMBER

PREPARED STATEMENT

Senator ADAMS. The second panel will consist of Committee on Public Education and I am going to ask that our next two groups come to the table together at this time, not only for saving of time, but so I can go back and forth between the two if there is some question that I need.

Our second panel includes representatives of the Committee on Public Education, Mr. Terry Golden, the cochairman, and Mr. Togo West, a member of the committee. I will also call on representatives of the Parents United and you can sit on separate sides if you want to remain separate from one another. I am doing this for the convenience of both the witnesses and of the committee.

And I will also call on members of the Parents United led by Mary Levy to take a seat at the table.

Mr. Golden, we will begin with you and we will place into the record any statement you wish to include and would like to have you briefly summarize your findings and recommendations and your entire statement will appear in the record as though read.

[The statement follows:]

STATEMENT OF TERRY GOLDEN

Mr. Chairman, members of the Subcommittee, the D.C. Committee on Public Education (COPE) appreciates the opportunity to share its views on the D.C. school system's proposed FY 1991 budget and, more generally, on the importance of strengthening public education in the District of Columbia.

As you may know, the D.C. Committee on Public Education was established by the Federal City Council in the fall of 1988 at the behest of Dr. Andrew Jenkins, the D.C. Superintendent of Schools. The Committee is a broad-based group that includes more than 75 civic, business, educational, and religious leaders and parents, all of whom are supporting fundamental reform in the District's schools. Our Committee spent the better part of seven months looking at all aspects of the school system -- from teacher compensation to the nature of the curriculum to the condition of the system's physical facilities.

The Committee's final report, Our Children, Our Future, which was issued last June, contains a set of 25 specific recommendations, which have been broadly endorsed by both the Superintendent and the Board of Education. (The recommendations are summarized in the attached Executive Summary of Our Children, Our Future.)

The Committee's ongoing role is to support implementation of the recommendations in our final report, serve as an advocate for the school system, and periodically provide the public with an objective assessment of the school system's performance.

Mr. Chairman, as you may know, COPE testified before the Education Committee of the D.C. City Council in support of the school system's proposed $600 million budget for FY 1991. We noted in our testimony that the 1991 budget requested virtually all of the funding necessary to implement most of the key recommendations in our report. We believe very strongly --- and we have said this on many occasions -- that education should be a top priority in this community, and it is our judgment that many groups and organizations throughout the District share that view.

As an example of the breadth of support for the schools, when we met last winter with the City Administrator to discuss the school system's budget, our group included, in addition to business and professional leaders, the Church Association for Community Service, an umbrella group representing more than 80 churches in the District; the Urban League; the Committee on Strategies to Reduce Chronic Poverty; and representatives from the Hispanic community.

We believe that a greater investment in our children's education, if managed prudently, is part of the answer to some of the most serious problems that afflict this community -- whether it's the high drop-out rate, teenage pregnancy, drug abuse, or youngsters ill prepared to compete for the kinds of jobs that will become available in the 21st century.

Subsequent to our testimony on the FY 1991 budget, we wrote to the Chairman of the D.C. City Council's Education Committee and recommended that the budget request be revised downward from

$600 million to $583 million. We did this on the basis of the revised attendance figures that came to light.

As you know, when the City Council ultimately acted, it reduced funding for the school system by an additional $46 million. Although the school system's 1991 budget still includes many of the initiatives that we have endorsed, two of the most important -- an increase in teachers' and administrators' salaries and school repair funds -- were eliminated.

We are here today to urge you to support a special Federal appropriation for those two programs, as well as three other program that are being undertaken initially with City funds. With respect to the issue of school repairs, the system has done a far better job this year than in previous years in spending money that is available for repairs. We urge you to add $10 million to the pay-as-you-go capital funds so that the system can continue to attack the tremendous backlog of repair needs that our study, and previous studies, have identified.

Our Facilities Subcommittee identified roughly $150 million dollars in deferred maintenance. We're talking about some very serious problems, including such things as overloaded electrical systems, leaking roofs, and fire doors that are inoperative. These are problems that must be dealt with -- and dealt with quickly. If our children and their teachers are ever to have a safe and decent place in which to study and work, we simply must not continue to put off bringing our physical facilities into good repair.

With respect to the salary increases, we have heard it said that you shouldn't earmark funds in the budget for salary increases when you are about to begin contract negotiations. While this generally is a sensible position to take, this year is different. We are saying -- as a community -- that we believe our principals and teachers should be paid salaries that are comparable to those of their peers in the suburbs. When we did our study, we discovered that starting salaries in the District lagged considerably behind those in the suburbs and the disparity increases at the upper end of the salary range.

All of us have heard stories of experienced teachers and administrators leaving the District for better paying jobs in the surrounding jurisdictions. But serious as that problem is, the more basic problem is that we have real difficulty attracting a large number of highly qualified candidates in the first instance.

In a perfect world, a salary differential of $1,500 to $2,000 for beginning teachers might not make a great deal of difference. But since we live in the real world and since teachers, like the rest of us, pay rent and make car payments and buy groceries, it's not hard to see why a higher salary does count for something to a young person who is just beginning his or her career in teaching.

Not only are our salaries lower, but our working conditions are far more challenging and there are fewer resources available to support school system personnel. Is it any wonder that

Fairfax and Montgomery counties and the City of Alexandria have many more applicants per available job than we do here in the District.

While we are committed to higher salaries, we also want to stress that in return for higher salaries, we think the D.C. Board of Education should insist upon several things in return, including revising the performance evaluation system and lengthening the school day by 1/2 hour so it, too, is comparable to the school day in the suburbs. While 1/2 hour doesn't seem like much time, it adds up to more than 1,000 hours of instructional time over the course of 12 years. We think this is a fair trade off for increased compensation.

In our report, we also make a number of recommendations about teaching, such as instituting a career ladder and improving in-service training, all of which, in our judgment, would make teaching in the District's schools more attractive. But we recognize that some of those issues quite properly should be taken up in the context of the collective bargaining process.

We urge the Committee to support three additional initiatives that were recommended in our report and that hold great promise for improving student performance -- expanding the early childhood program so that it reaches more children, upgrading the athletic program and extracurricular activities, and expanding the Comer program to more elementary schools. The rationale for these recommendations is more fully described in the attached Appendix A.

Mr. Chairman, President Bush has often described himself as the education president and we applaud him for that. Many people in this town have taken up the challenge and have made a long-term commitment to the improvement of our City's public schools. We are doing everything in our power to create a climate that is conducive to change.

Inasmuch as our Committee includes many businesspersons, we are pleased to report that we have involved a great many local and national firms in support of our efforts. We have received multi-year, six figure commitments from COMSAT, the Rockefeller Foundation, the Philip Morris Companies, Citibank, and the Next Century Schools Foundation. We also have received contributions from literally scores of companies and professional firms in the Washington metropolitan area and we are greatly encouraged by the level and breadth of support from the local corporate community, as well as from Washington-area foundations. But now we must look to the Congress to provide the additional resources that will mean so much to our school system and to our City.

We are well aware that more money is not the whole answer. In fact, in our report, we make many suggestions for structural reforms that cost nothing and we know that they are at least as important as additional resources. However, there can be no doubt that our teachers and principals are underpaid relative to their peers in the Washington region and the absolutely pathetic conditions in our aging buildings are well know to everyone.

We urge you in the strongest possible terms to provide the increased funding for teachers' and administrators' salaries, for capital improvements, and for the improvements to the early childhood and athletic programs.

ATTACHMENT A

June 20, 1990

PRELIMINARY DRAFT
SPECIAL FEDERAL APPROPRIATION FOR D.C. PUBLIC SCHOOLS
(in 000s)

	FY 1991	FY 1992	FY 1993	FY 1994
Additional Compensation for Teachers and Principals	36,000	37,500	39,000	41,600
Pay-as-you-go Capital Funds	10,000	12,000	15,000	18,000
Improvements to Athletics and Extra-Curricular Activities	500	700	900	1,100
Expand Comer Program to Additional Schools	--	325	500	520
Expand Early Childhood Program	1,000	1,500	2,000	2,200
TOTAL	47,500	52,025	57,400	63,4202

A FOUR-YEAR PLAN FOR A SPECIAL FEDERAL INITIATIVE IN SUPPORT OF REFORMS TO REVITALIZE THE D.C. PUBLIC SCHOOLS

As part of a special Federal initiative for the D.C. Public Schools, the D.C. Committee on Public Education (Committee) recommends the following five elements on the basis that:

- Each is key to the reform of the D.C. Public Schools and all are core recommendations in the Committee's report, Our Children, Our Future, which has been broadly endorsed by the school system, the District Government, the business community, parents, and local civic, religious, and educational leaders.
- With the exception of the first-year salary increases for teachers/principals, the Federal funds that would be provided will be more than matched by District and private funds.
- These are concrete, substantive programs whose implementation can be assessed and measured.
- Private sector experts will be involved in these efforts and will help to monitor the school system's performance.

1. Competitive Salaries for Teachers and Principals in Exchange for a Longer School Day and a More Effective Teacher Evaluation System

The Committee's evaluation of the D.C. Public Schools concluded that the applicant pool for teacher positions is too small to enable the school system to be selective. The Committee also noted that the school system has, and will continue to have, major problems in attracting and retaining a high quality workforce because of the significant salary gap between the District and its suburbs, substandard working conditions, and the lack of financial incentives for high-quality performance.

D.C. teachers' salaries for school year 1990-1991 are approximately 12% lower than the average salaries paid teachers of similar experience and qualifications in the Washington suburbs. The salaries are about 18% lower than in the highest paying suburbs.

The Committee similarly found that District principals need to be paid competitive salaries. Principals' salaries in the District for school year 1990-1991 are approximately 16% lower than the suburban average, and 28% below the highest suburban levels.

The Committee found that the current teacher evaluation system does not function properly to address the problem of teachers who are not performing satisfactorily in the classroom. The Committee also believes that District children need to spend more time in school. The student school day in the District is one-half hour to one hour shorter than the school day in the surrounding suburbs.

The teacher evaluation system, the length of the workday, and the salary schedule are determined through the collective bargaining process, which has just begun for a new contract that will cover the next three years. In the collective bargaining process, the school system is seeking an increase of one-half hour in the teacher workday and a return of final authority over the teacher evaluation system to the Superintendent.

Calculation

The $36 million that is being sought would cover pay increases for teachers and principals but would be sufficient only to increase salaries to the average suburban level. Based on the seniority distribution of the current workforce, raising teachers' salaries will cost $2.6 million for each percentage point increase; raising principals' salaries will cost $320,000 for each percentage point increase.

	Percentage points needed to reach suburban average		Cost per percentage point		Total
Teachers	12	x	$2.6 M	=	$31 M
Principals	16	x	$320 K	=	$ 5 M
Total					$36 M

The Committee's calculation of costs in the out-years represents the FY 1991 cost of $36 million increased by an assumed rate of inflation of 4% in subsequent years. Any increases beyond inflation would be funded from the District's regular revenues.

The Committee expects that award of salary increases at these levels will be contingent upon acceptance of the longer workday and revamping of the evaluation system.

2. Building Repairs to Correct Fire and Building Code Violations

Building experts who examined all the District's school buildings during 1989 for the Committee identified a $150 million backlog in needed repairs. Fire Department inspections of 94 schools in the same year found over 4,300 Fire Code violations including missing or defective fire doors and fire extinguishers, malfunctioning fire alarm systems, and exits barred or chained to secure defective exterior doors.

For FY 1991, the District has proposed $22 million in capital expenditures in the CIP and $10 million in pay-as-you-go capital funds.

The Committee urges a matching Federal appropriation of $10 million to be used for high priority emergency repairs. If the Federal government gradually increases its special contribution to $18 million by FY 1994 and the District similarly increases its proposed level of effort, the system could substantially reduce its current backlog without neglecting ongoing preventive maintenance.

3. Revival of Athletics and Extra-Curricular Activities in Junior and Senior High Schools

The Committee's report noted that few before and after-school activities are available to District public school students, that participation is minimal, and that the overall quality of the programs is low. One of the principal reasons for this situation is that coaches and faculty sponsors are either poorly paid or not paid at all. The Committee believes that such athletics and extracurricular activities contribute significantly to a student's education and sense of accomplishment.

The City's FY 1991 budget proposes an increase of $2.5 million for upgrading equipment, supplies, medical coverage, and other aspects of the athletic program. An additional $500,000 is designated for increasing stipends to coaches and faculty sponsors. Federal funds matching the stipend increase would enable current stipends to be increased to amounts typically paid in the suburbs, as well as enabling the system to pay an additional 150 coaches or sponsors in order to provide additional after-school activities.

4. Staff to Expand the Comer Program to Additional Schools

The program designed by Dr. James Comer of Yale University that focuses on children's social and psychological growth as well as their educational needs recently has received widespread national attention.

The Committee received a multi-year grant from the Rockefeller Foundation to support implementation of the Comer program in the District. With the enthusiastic support of the D.C. Public Schools, the Comer program is being introduced at 12 D.C. elementary schools next year. Rockefeller is contributing $125,000 in each of the next four years, while the school system has added to its base budget $300,000 to hire 10 social and mental health workers.

The Committee proposes that Federal funding be provided so that 10 additional mental health team members can be added in FY 1992 and 5 more the following year. The total of 25 "Comer staff" funded by combined District and Federal resources would enable the Comer program to be expanded to 25 schools by FY 1994.

5. Expansion of Early Childhood Programs

The District has been a national leader in making full-day school programs available to several thousand four-year-olds. Nonetheless, the Committee's evaluation concluded that the program is uneven in quality and it noted that at least 1,000 at-risk children are not served by any early childhood program. In 1989-1990, the system had a waiting list of 500 children who were unable to attend pre-kindergarten programs for lack of space.

The District is addressing quality concerns by providing funding to upgrade equipment and supplies to minimum standards and by reducing the pupil/adult ratio to 10/1, which is an acceptable level. Total District funds budgeted for increases to meet minimum standards next year are $3.1 million. The Committee is seeking an additional $200,000 from private sources to fund several early childhood demonstration centers.

A commitment of $1 million in Federal funds would enable the District to serve an additional 200 four-year-olds, and would include the one-time costs of preparing the facilities and purchasing equipment, as well as ongoing costs of teachers, aides, and classroom supplies and materials. Increasing that amount to $1.5 million in FY 1992 and $2 million in FY 1993 would bring the number of additional children served to 500, which is approximately half those currently covered by no program at all.

SUMMARY STATEMENT

Mr. GOLDEN. Thank you very much.

I would like to submit a formal statement for the record and just make a few informal remarks, if I could.

Mr. Chairman, I am the chairman of the D.C. Committee on Public Education and just to give you a little bit of background about who we are, we are basically a broad-based civic group representing the leadership in a number of different areas within the city.

The group composes some 75 civic leaders and includes the presidents of the six major universities, such people as the chairman of the Washington Post, the chairman of the Council of Churches, the president of the Washington Urban League, business leadership from all sectors of the city, the president of the National Urban Coalition. Approximately 25 percent of our members were activists parents from every ward in the District. We had experts involved with us and we had sitting on the committee itself superintendents of several successful school systems around the country.

This, I might add, was not a blue ribbon panel that just sat passively while others worked. It was very much a working group. We spent $1 million on staff support and consultants. We met many times and often to develop this report.

The members of the committee were members of that committee because they were concerned about our community and its future.

Today, we are spending approximately 52 percent of the city's budget on issues related to safety and welfare and yet we see no end in sight to poverty or drugs.

Approximately 50 percent of our elementary school kids live in poverty. Approximately 30 percent of the kids born in our public hospitals are born to mothers who are on drugs and are essentially crack babies.

We are also very much concerned about our schools. We have a dropout rate in excess of 40 percent. Our children are graduating approximately 2 to 3 years behind their peers in terms of academic performance. Our SAT scores within the District school system are approximately 700 versus a national average of 900.

Our buildings are in a state of disrepair. We are particularly concerned about the fire and safety issues in those buildings. We have an expressed concern about the management efficiency of the system, a District school system that is spending 36 cents out of every $1 on overhead where the average of other major urban schools we examined was 27 cents.

Senator ADAMS. Let me hear that again because your microphone—that one happens to be fading in and out.

It is 36 cents——

Mr. GOLDEN. We are spending on nonschool based management 36 cents out of every $1 as compared to other major urban school systems that are similar to the District's where they are spending some 27 cents out of every $1. The difference represents roughly $45 million in the school's budget.

We are also as a school system experiencing major problems attracting and retaining qualified teachers to teach within the school system.

One thing I would hasten to add and make it really clear, this committee was not an independent committee and our results were not independent results. We worked very closely with the superintendent and the board to develop the plan. We developed a plan at their request and we really view it as a joint venture between the community and the school board and the superintendent.

It is a unified plan that represents the best thoughts of the board and the superintendent. It was based on our combined belief that if the District is to turn the corner and change the events that have occurred, that a quality education is key to that change. It may not be the whole solution, but it is clearly part of the solution, and that as far as this District is concerned, that our children are our future.

I believe, as Mr. Bush and Dr. Jenkins have indicated, that we have made some progress. Clearly, we have a plan in place that represents a blueprint for the future. Implementation is underway.

I congratulate the board of education and the superintendent in closing the 7 schools and I understand that there is another 12 that are being evaluated.

There have been some staff reductions. There have been some improvements in education at the elementary school level and there are movements forward with an aggressive early childhood program.

So I think, although there are many difficulties to face and many challenges, that progress has been made.

It is clear to us as a group independently looking at the school system that we need your help if we are to succeed. The business community is doing its part. We are actively involved. We will raise some $10 million for the school system to support it and we have a number of our members of the business community and other sectors of the community working actively with the schools.

But it is clear, given the financial condition of the District, that the District cannot do it alone. We would like your support on five major initiatives representing some $47 million where action is needed and where the District cannot cover the cost itself.

No. 1, we need money for teacher compensation to attract teachers. A part of this package is the concept of expanding the school day and school year and also developing an evaluation system with the teachers as an incentive for higher pay where we get an evaluation system where we can attract qualified teachers, but deal with those teachers who are not performing in the school system.

Our buildings are in tremendous need of repair and I will deal with that more in a moment. We also include as a part of this initiative an after school program.

One of the goals that we have is really to deal with the latch key children in our community. The goal being to keep our schools open from 3 to 6 p.m. in the evening so that our kids have alternates to being on the streets and selling drugs, so they can be involved in sports and extracurricular activities and the like.

A fourth initiative really is in early childhood. We have set out as a goal with the school system to have every at-risk 3-year-old in an early childhood program.

One of the things that we learned is that we have a very high dropout rate because our kids are not adequately prepared for kindergarten and first grade when they reach that level.

We have discovered that they fail early and often because of this lack of preparation and believe early childhood makes sense in terms of dealing with that problem.

Finally, the last initiative is an initiative which will help us to restructure our elementary schools by introducing the Comer model in a number of elementary schools, reshaping those schools to meet the individual needs of poor children.

I guess the last point I would like to make really relates to our buildings and the state of repair that they are in. We have in the District some 188 school buildings. On average, they are 50 years old. Some of them were constructed prior to the Civil War.

We went out with a group of engineers and other construction people and evaluated each school. We discovered that it was $150 million backlog of work that needed to be done just to bring them up to an adequate state of repair and approximately an additional $50 million necessary to improve those schools to meet the needs of the future, particularly to get them air-conditioned so that they might be used year round.

Our schools absolutely need everything. We have major fire and safety problems within our schools; fire doors welded shut or chained shut; alarm systems that do not work; boilers that are in a state of disrepair; electrical systems that are dangerous.

During this last year, approximately 94 schools were evaluated by the fire department and we found over 4,000 code violations in those schools. The schools are in a total state of disrepair and need repairs badly.

I would just ask you the question, what kind of a message are we sending to our children when we are putting them in schools of this character? Are we conveying to them their importance within our community? I do not believe so.

We need approximately $10 million of pay-as-you-go funds to supplement those that are being provided by the District out of its own budget in order to deal with this very important issue.

Now, if I could, I would like to turn over the microphone to Togo West, a partner in the law firm of Patterson & Belknap, who will discuss a little bit about the other initiatives we are requesting.

Senator **Adams**. Mr. West?

STATEMENT OF TOGO WEST

Mr. **West**. Thank you, Mr. Chairman.

Senator Adams, let me say that we at the Committee on Public Education do not believe by any means that money is the whole answer to the problem we are confronting. Neither we, nor the school board nor the school administration is saying that.

Now the fact is, for example, COPE has made a number of recommendations that do not require additional funds. We have strongly urged the system, as you have heard, to significantly reduce the size of the central office and the system is acting on that to reassign personnel from the central office to schools.

We have made clear in the report of COPE last year, to which you referred earlier, that the system spends entirely too much on overhead. That does not cost money, it saves money.

Even so, as Terry has said, we support the request of the school system for the special appropriation of $47,500,000. The fact is that although there had been at the time we did our report the impression that D.C. teachers were among the highest paid in the region, if not in the Nation, they are not.

As you have heard from the superintendent, while it is true that the average salary for the system when averaged can be relatively high, that statistic is due to the number of senior teachers in the system.

Senator **Adams**. That was a question that I was going to ask you. I have some familiarity with the District school system and I thought that problem was correcting itself over the last decade when I have been sort of out of touch with the District.

You still have a very high senior list? Is that compared to your total overall number of teachers?

Mr. **West**. I think so. I believe that the statistics we have from the school system, and we mentioned in our report, is that a large number of the teachers of the system will retire at the end of the decade, for example. They are a fairly senior system.

Senator **Adams**. You mean the end of the decade the year 2000?

Mr. **Golden**. I think, if I could say, the statistics in terms of the comparability are this, and that is for a teacher of comparable number of years and experience and in the school system that the District salary is approximately 12 percent less on average than the suburban schools that surround Washington, DC.

Senator **Adams**. Well, that is 12 percent less on average, but are senior people paid more than those in the suburban areas?

SALARIES

Mr. **West**. No; that is the point that the senior salaries, comparable salaries, are below the highest paid salaries in the surrounding jurisdictions, similarly for entry level.

Senator **Adams**. That is what I was going to ask you. What about entry level?

Mr. **Golden**. They are lower as well and, if I could say it, the difference is that we have the surrounding suburbs are school systems that are growing dramatically and, therefore, the average age of the teachers and the average experience of the teachers is lower. And that for comparable starting salaries we are lower than the suburbs and for comparable salaries for people with the same level of experience, we are 12 percent lower than the surrounding jurisdictions.

Senator **Adams**. Thank you.

QUALIFIED TEACHERS

Mr. **West**. Our point then, Mr. Chairman, is that in the District of Columbia, as in urban school systems throughout the Nation, we are competing for an increasingly small pool of qualified teachers.

Indeed, we in the District of Columbia are competing for Afro-American teachers, teachers who have multiple language capabilities, precisely the same teachers that are being sought in surrounding jurisdictions, and our school system is at a disadvantage. It pays less. It offers less in starting salaries and it offers quite frankly, how can I say it any other way, more difficult circumstances in which to practice their craft.

You have already heard from Terry about the facilities. The fact is that teaching in the D.C. school system, in any urban system, is a more demanding, more challenging task than in the suburban systems.

So the request of the school system for an amount of $36 million in additional compensation for teachers and principals is a request to put our money right where the rubber meets the road.

If the students are the product of the system and the most important thing, the teachers and the principals are the ones who make it happen. No better place to make the investment in the minds of COPE than with teachers and principals.

While we are committed to these higher salary requests, we do believe, and it has been emphasized in our report, that there should be a quid pro quo. The board of education, in our view, should insist upon several things, including the lengthening of the school day by one-half hour and revising the performance evaluation system.

We believe that it is important to ensure that our youngsters receive at least as much instructional time in the course of their school hours as do young students in the suburban systems.

We need to make sure the classroom teachers who are not performing satisfactorily and in our survey mentioned in our COPE report, our survey indicated that when we asked teachers and principals themselves, they thought that that was a minority—that could be anywhere from 10 to 20 percent—that those teachers receive additional training and in the event that such retraining does not lead to improved performance, that there is some measure of removal from the classroom.

It has been emphasized to you, Mr. Chairman, that because our committee was established initially by the Federal City Council of the District of Columbia and because it includes many leaders from the business community that this committee, COPE, is a communitywide effort.

As such, a great number of local and national firms have been supporting our efforts to strengthen public education. To cite but a few, Comsat, the Rockefeller Foundation, the Philip Morris Co., Citibank, Next Century Schools Foundation, and RGR Nabisco have made multiyear six figure commitments to support our efforts.

There is then a new resolve in the District of Columbia and all its constituent communities, the business sector, public sector, and the community action sector, parents and teachers to do something to improve the quality of public education to strengthen it in the District.

We believe strongly that a greater investment in our children's education is one of the most important responses we can make to a whole host of other problems in the community.

Business wants to see citizens who can do productive work in the high technology area that is becoming more important in this region.

Our parents and our other citizens want to see something happen with the dropout rate, teenage pregnancy, drug abuse, or youngsters who simply need a better preparation.

I close with a line that some of my friends here have heard before, Senator. I am the son of public school teachers. My father was a high school principal, not in this system, in North Carolina; my mother a lifetime public school teacher also in that system. My father graduated from the old Dunbar High School.

They told me and impressed upon me the belief that the importance of our public schools has to do with making good citizens; people who will read and write and think and participate and who by their efforts will make life in our country better for all of us and also, incidentally, offer a way out to some from the problems and debilities that affect them in their own neighborhoods.

I believe they were right. My colleagues in COPE believe they were right. We ask you to support this special appropriation.

SCHOOL SYSTEM FUNDING MECHANISM

Senator ADAMS. Thank you very much.

I have a question before I go to the next part of the panel. There was a significant debate at the time that we created the funding mechanism for the school system here as to whether we should use an independent funding district based on millage and property taxes, or whether it should go through the City Council.

I think we made the correct decision, by we, I mean those that were all involved at that time, just simply because we were trying to strengthen the city government and to centralize it to a point where it had—it did not have conflicting forces within it that would tear it apart while it was trying to survive as an entity.

Many school districts throughout the country use special millage systems, particularly for their capital accounts. And I notice in your report that you have suggested multiyear funding in order for the schools to plan for the future.

Are you at all interested—and this is only a suggestion on my part because it is not within my jurisdiction to do this, but are you interested in presenting to the city the potential of a millage funding, and then it might become our business, for capital expenditures to assist in helping with your capital costs? I mention that because operating costs are very hard to deal with in this fashion, but capital costs are often bricks and mortar that are able to be justified by the people who are paying the millage, in other words, the property tax set aside.

Now I say that to you because in our State, which is the State of Washington, we have millage for everything. We have millage for park districts, school districts, garbage districts and these are somewhat successful. I do not hold up Seattle as the paragon of everything, but it works pretty good as a city. And I just ask you that question because that is part of what you have in your report as a problem.

Mr. GOLDEN. Mr. Chairman, I am not sure I can answer that detailed question specifically, but I can tell you that there is a major philosophical problem that needs to be addressed by Congress and by the City Council and Mayor and the school board in a unified way and there needs to be some reconsideration and that is, really who is in charge of the school system and how do we ensure that the schools have an adequate budget and that the 81,000 kids are adequately taken care of?

We currently have a situation where there is a tremendous split in responsibilities, where on the one hand the school board is responsible for the policies in the school system but do not have control over the school budget, where the City Council has some say in the school budget, but does not have responsibility for policy, and where everyone in the District needs to come to Congress before they can agree on an overall budget, and given the scarcity of resources and the inability to increase the Federal payment, there is not sufficient funds to deal with all the issues within the District.

What concerns me and what concerns this committee is that in that organizational structure, in that political structure, 81,000 kids are not getting the education that they need and that fundamentally is an issue I think that needs to be worked on not today, but over the next year or so and it requires the involvement of Congress and I think it involves the involvement of the Mayor and the City Council and the board of education, but it is just not working the way it is.

Senator ADAMS. Well, I hope that you will make a presentation. It appropriately should go to the District Committee on the House side and there is a comparable committee, though it is not called the District Committee, on the Senate side for potential legislative changes.

I find that as an appropriation chairman it is very difficult to spread a limited amount of allocated money, which is what we get, over what are really policy issues, for example, capital construction budgets or picking up of past pension liabilities and so on really goes beyond the capacity of 1 year appropriating processes.

So if you wish to make recommendations on that, I certainly would——

Mr. **Golden**. Well, I think we would, but I think the District has got an overall problem in the sense that financially its needs and its resources are not in line with each other, that this city is very much taxed out in terms of property and income tax when you compare it to other cities in our country.

Senator **Adams**. Well, that is what is concerning my colleagues. The tax rates are very high and yet the school system and several other areas, the police area, for example, we had to appropriate additional money into it.

So there is a severe problem and that is why we are glad that you are a committee that is working on this and simple increases in the Federal formula, though they may be deserved and they may happen, I cannot say because a lot of that depends upon the administration's position since they can veto anything, but I think that there does need to be some consideration and that is why we have asked the questions about the number of resources allocated to the central portion of the school area, the school salaries and so on.

I appreciate the efforts of the committee very much and I hope that you will continue with implementing and oversight on that.

Please, if you will stay there for a moment, I would like to turn to the second part of the panel, but I may have some additional questions.

NONDEPARTMENTAL WITNESSES

STATEMENT OF DELABIAN L. RICE-THURSTON, EXECUTIVE DIRECTOR, PARENTS UNITED FOR THE D.C. SCHOOLS

ACCOMPANIED BY MARY LEVY, MEMBER, PARENTS UNITED FOR THE D.C. SCHOOLS

Senator **ADAMS**. I am very pleased to welcome the Parents United.

And who will be the spokesperson?

Ms. **RICE-THURSTON**. I will speak first. Thank you very much.

I am Delabian Rice-Thurston, executive director of Parents United for the D.C. public schools.

Thank you for permission to address the Senate Committee on D.C. Appropriations on behalf of the needs of our D.C. public school students.

Parents United asks the Senate to appropriate an additional $36 million for teacher salary increases and to move $10 million in school maintenance funding to the pay-as-you-go category out of capital moneys.

I will begin with a justification for maintenance funds. The report of the D.C. Committee on Public Education confirms the need for $150 million to bring our schools to meet safety and security standards.

The staff of the buildings and ground committee of our school system, however, reports that $150 million is the tip of the iceberg. You see, that takes care of major roof repairs, boilers, wiring, windows, but funding to pay for supporting repairs like replastering, repainting, repairing floors, as we understand it from them, will add another $100 million.

But why should you the Senate bother to give D.C. students the quality of school facility you would want for your own child? I cannot address that really. I can say that you, the Congress, are preparing to appropriate millions, perhaps hundreds of millions of dollars to give us a state-of-the-art prison for those children whom our city has failed.

I want you to understand the state of some of our schools that are home to bright eyed, gorgeous children who live in the District.

Let us start by walking through Langdon Elementary. Langdon is at 12th and Evarts Streets, Northeast. It is home 6 hours a day to around 350 prekindergarten through sixth grade children. By the way, before they closed the Capitol City Inn, it had 120 homeless children as well.

First, walk into the dingy entrance area in the school office. The roof leak, present for more than 3 years, has eroded the replastering job that was done last year. If the roof patch does not hold or the gutters are not replaced, the office and the principal's office will continue to erode.

Let us walk out into the hall. You will notice there structural cracks in the wall. Such cracks are everywhere because the school building needs shoring up.

Walk into every bathroom except two, anywhere you look you will find patches of brown coat. For those of us who renovated our houses, the brown coat is underneath the white plaster that you do the painting on.

The leaks apparently are between the ceiling and the floor so they are not easily spotted. In some of our bathrooms the wall tiles are gone. The bathroom radiators leak throughout the building. One radiator is so rusted that a pile of rust basically stays on the floor beneath it.

Let us walk out into the auditorium. Only one window in the auditorium opens. It is not an air-conditioned school. Let us go into the prekindergarten and kindergarten part of the building and imagine that you are a 4- or 5-year-old using the commode. You cannot wash your hands because the room has no sink. None of them have a sink in that part of the building.

The water power is very low. It is very hard to get enough water to wash your hands. The drinking fountain makes so much noise that the school system turned it off.

Let us go up to the second floor. There is a computer room there and look at the map on the back wall. Oh, sorry, that is not a map. I thought this river was around a State, but it is a humongous crack in the wall and the States that I saw were just crazed plaster and paint.

Yes; and the windows are nailed shut because they cannot be locked. Both the original building and the newer addition of Langdon have these kinds of serious problems.

Langdon is an example that I hope is the worse, though I fear it is not. You could visit Bancroft Elementary at 17th and Newton Streets, Northwest.

At Bancroft, you will find windows that open by hanging on one broken hinge. At first, I thought that was a new way to catch the air and direct it, but it is not. The windows are just broken.

One boys' bathroom has no toilet surrounds at all. One wing of the building generally has no heat in the winter. One teacher is chronically sick from the cold.

In the school, several rooms have half a door, that is when they have two doors that are supposed to meet; others have no door at all. Teachers say it is very hard to teach above the noise when children are passing in the hall. It is also distracting.

The open space addition has around six classes. Often the air-conditioning fails. In the late spring the area is stifling. Bancroft will be open this summer. The teachers who are in that part of the building, to clean up to leave had no air-conditioning. If it is not fixed by the time the children enter for their program, I believe it starts on Monday, it is going to be a real disaster.

The bathroom nearest the cafeteria is full of wall and ceiling mold. Ventilation does not work very well there. rooms 9, 111, and 210 have obvious leaks.

You could also visit Anacostia High School. At Anacostia conditions look very pleasant overall, but there is some hidden conditions that are dangerous. In the shop for teaching mechanical repairs the ventilation system is inadequate. The teacher explained that some students have to leave the room when parts are washed, you know, mechanical parts, because the smell of benzene is overpowering. It is also carcinogenic, if I remember correctly.

He also said that starting up a motor when you finally made it work produces fumes that cannot adequately be ventilated.

The chemistry section of the building also has at least one ventilation hood that does not function properly. So you remember some of your chemistry experiments, imagine those fumes going through the open area.

These conditions are only an example of the problems of our schools. It is clear that our system can improve conditions when it has funding.

In 1985, the Mayor gave our schools a $24 million windfall in capital funding. That was after Parents United was able to get the business community to look at schools, after we were able to show live on television that 80 percent of our schools have roofs that leaked, 80 percent had windows that did not function, that were rotted. Well, within a very short period of time, our system went from 80 percent of buildings with roofs that leaked down to 57 percent. Do not laugh. For an underfunded public urban school system it is a major improvement to go from 80 percent roofs leaking down to 57 percent.

I will leave for our school finance analysis, Mary Levy, an analysis of teacher salaries, but I would like to start with this thought. In a school system in which 45 percent of our children drop out, in which the most significant problem that we have is with boys, young boys who will be filling the prison that you are going to build, it is imperative that we have in our schools far more male role models for teachers and of the reality that learning is not a female activity.

PREPARED STATEMENT

You do not attract men into a classroom whether they are retired from the military or anything else if you cannot offer them decent salaries. That is at least one of the reasons that we have to do something about our salary structure.

[The statement follows:]

STATEMENT OF DELABIAN L. RICE-THURSTON

I am Delabian Rice-Thurston, executive director of Parents United for the D.C. Public Schools. Thank you for permission to address the Senate Committee on D.C. Appropriations on behalf of the needs of our D.C. Public School students.

Parents United asks the Senate to appropriate an additional $36 million for teacher salary increases and to move $10 million in school maintenance funding to the Pay-As-You-Go category.

I will begin with a justification for maintenance funds. The report of the D.C. Committee on Public Education confirms the need for $150 million to bring our schools to meet safety and security standards. The staff of the Buildings and Grounds division assures us that $150 million is the tip of the problem. For example, that includes funds for big-ticket roofs, windows, boilers and wiring. The funding for supporting repairs like replastering, repainting, repairing floors will add another $100 million.

Why should you bother to give D.C. students the quality of school facility you would want for your own child? I can't address that really. I can say that the Congress is appropriating million to give the District a state of the art prison for those people whom we failed as children. I want you to understand the state of some of our schools that are home to the bright eyed gorgeous youngsters of our city.

Let's walk through Langdon Elementary. It's at 20th and Evarts Streets, N.E. It is home six hours a school day to around 350 children in pre-kindergarden through sixth grade. (By the way, it was home to an additional 120 homeless children of the Capital City Inn. Walk into the dingy entrance area and the school office. The roof leak (present for more than three years) has eroded the replastering job done last year - if the roof patch doesn't hold or the gutters aren't replaced the office and principal's office will continue to erode.

Walk into the hall and notice the structural cracks in the wall. Such cracks are everywhere the building because it needs shoring up.

Walk into any bathroom (save about two) on the old side of the school and see the brown coat of the plaster. The white plaster on the ceiling has long gone. The leak apparently is between the ceiling and floor in some bathrooms so major action is needed to find and repair it. In some of the bathrooms, wall tiles are gone. Bathroom radiators leak throughout the building. One radiator is so rusted that a pile of rust stays on the floor beneath it.

Go into the auditorium. Only one window opens.

Go into the pre-kindergarden/kindergarden part of the building and imagine you are a 4 or 5 year old using the comode. You cannot wash your hands because the room has no sink. The water power is low. The drinking fountain makes so much noise the school turned it off.

Go to the computer room on the second floor and look at the map on the back wall - that's what I thought it was until I realized the "river" was an enormous crack in that wall and the countries were pealing plaster/paint. Oh, the windows are nailed shut because they have no locks.

Both the original building and the newer addition of Langdon have these kinds of serious_problems.

Langdon is an example that I hope is the worse, though I fear it is not. You could visit Bancroft Elementary at 17th and Newton Streets, N.W.

At Bancroft you will find windows that open by hanging on one broken hinge. (At first I thought that was a new way to catch the air but it isn't; most windows are simply broken.) You would find no hot water to wash your hands. One boys bathroom has no toilet surrounds at all. One wing of the building generally has no heat in the winter. One teacher is chronically sick from the cold. In the school several rooms have half a door or no door. Teachers say it's hard to teach above the noise when children are passing in the hall. The openspace addition as around six classes. Often the air-conditioning fails. In the late spring the area can be stifling. The bathroom nearest the cafeteria if full of wall and ceiling mold. Rooms 9, 111, 210, have obvious leaks.

You could visit Anacostia High School. At Anacostia, conditions overall look pleasant. Some hidden conditions are dangerous. In the shop for teaching mechanical repairs the ventilation system is inadequate. The teacher explained that some students have to leave the room when parts are washed because the smell of benzene is overpowering. He also said that starting up a motor produces fumes that aren't adequately exhausted. In the chemistry section at least one ventilation hood doesn't function so noxious gasses hang in the air.

These conditions are only an example of the problems of our schools. It is clear that our system can improve conditions when it has funding. In 1985 the Mayor gave our schools a $24 million windfall in capital funding. Within a short period our system went from 80% of building roof leaks to 57%. Don't laugh. For an underfunded urban school system, that is a major improvement.

The need for $36 million to improve teacher's salaries is equally vital. This is the cornerstone of our effort to obtain a 1/2 hour longer school day for students - a day comparable to the suburban school day.

D.C. schools have a very senior teaching force that is retiring in large numbers. This arises from historic budgetary problems. In 1980 our school system RIFed 758 teachers, those with 10 years experience or less to cover a $60 million budget shortfall. The school system has the opportunity to create an outstanding teaching force in a black urban area.

Unfortunately, the District is at a competitive disadvantage in the quest for high quality teachers. The D.C. Public School's starting salary this past school year ($22,983) was 5.5% to 11.7% below that of our competing jurisdictions. Our top salary for teachers ($47,509) was 9.3% to 20.8% below our suburban competitors. Many people train in the District, then secure a more highly paid position in the suburbs. D.C. is similarly disadvantaged in its quest to hire and retain principals.

Parents United has sought two important improvements in our teaching conditions for a number of years. These improvements require a secure base of funding for higher salaries.

Our students have a 1/2 hour to one hour shorter school day than our suburban counterparts. In fact that is approximately one to two school years less learning than the suburban students against whom they will compete for future jobs. Indeed, our students graduate approximately two years below grade level on standardized tests.

Parents United has persuaded the School Board to place a longer school day in the contract negotiation provisions for the three year teacher contract that expires this year. Clearly the Washington Teachers' Union will not agree to a longer day without a compensating increase in salary.

The Union, and Parents United are familiar with the history of unfunded and underfunded wage increases. The Mayor and Council have removed funds for wage increases from past budgets with the promise to add funding after the budget is approved. The Mayor and Council do not want to "tip their hand" before the negotiation is finished.

In 1987 the school system was denied $15 million in additional funds to pay for the pay increase and had to reduce services significantly to meet its negotiated obligations. In other instances, the Mayor has promised additional funds to the school system but not kept the promise.

Lengthening the school day to the suburban day is essential to improving the learning environment for our students. Giving excellent teachers and principals the financial incentive to come to and remain employed by the D.C. Public School System is essential to improving the quality of our schools.

Parents United asks the Congress to mandate that the City spend $36 million on teacher/principal salaries and $10 million on additional Pay-As-You-Go capital funds for building maintenance. These needed improvements in our FY 1991 D.C. Public School Budget will go a long way to helping the school system implement the recommendations of the Report of the D.C. Committee on Public Education.

OUR CHILDREN, OUR FUTURE

Achieving The Plan to Revitalize the District of Columbia Public Schools

"Today, the city's agenda appears driven by the harsh realities of drugs, crime, and violence. ... We already have a higher percentage of adults in jail than any other jurisdiction in the United States ..., a budget for corrections that has grown by one hundred percent over the last six years. ... and the largest police force on a per capita basis of any city in the country."

Although "most of our schools are places where learning is taking place and kids are engaged in productive activities," still "as children grow older, our schools fail to reach many of them." Four of ten drop out; many are not qualified for jobs; and end up in "unemployment ... public dependency ... crime and drug dealing as a means of self-support."

The District schools must become places where far more youngsters learn the payoff of education, discipline and hard work. How? We must raise "the issue of public school reform ... to the top of our civic agenda."

So concludes the D.C. Committee on Public Education, the blue-ribbon group of business, civic, religious, education and parent leaders who studied the D.C. Public Schools last year. COPE's report, Our Children, Our Future, is a set of concrete recommendations formulated by management and education experts, a comprehensive, integrated plan for revitalizing the D.C. Public Schools. [Appendix 1 is the Executive Summary of the COPE Report]

COPE'S REFORM AGENDA

- Reform teacher compensation and promotion
- More time in school
- Repair of buildings
- Cuts in central office overhead and institution of local school-based management.

FACTS RE TEACHER SALARIES, TIME IN SCHOOL AND BUILDING CONDITIONS

- Teachers and principals in the District of Columbia are paid considerably less than their counterparts in the suburbs.

- Extra-curricular programs depend on faculty sponsorship. However, faculty sponsors in the District are paid only a fraction of the stipends given to sponsors in other suburban districts and many receive no stipend at all.

- Schools have difficulty attracting qualified coaches because of low coaching salaries.

- District children have the shortest instructional day in the Washington area.

- Faculty work and students attend classes in poorly maintained school buildings and unsafe facilities. Equipment and labs are inadequate.

RECOMMENDATIONS FOR 1990-1991

- Pay D.C. teachers and principals salaries equal to those of the surrounding metro area: $36 million

- In exchange, increase teacher work day by 1/2 hour.

- Appropriate more funds devoted to emergency repairs of facilities: $10 million

CONCERNS

- Enrollment decline
- School closings
- Cutting central administration
- Federal payment

THE COPE REFORM AGENDA

- More time in school -- a longer school day and school year -- and constructive after-school and summer alternatives like athletics, enrichment activities and clubs, remediation and child care

- Reforms in teacher compensation and promotion-- salaries increased to the rates paid in the surrounding school districts in exchange for merit incentives, a teacher career ladder, more effective evaluation

- Repair of our badly deteriorated buildings, to make them decent and safe

- o Cuts in central office overhead and institution of local school based management
- o Better programs -- early childhood, curricular reforms, specialized schools, proven approaches to educating "at-risk" children

COPE implementation costs for the next school year

Local school programs	$26 M	funded
Central support & services	4	funded
Basic maintenance/repairs to buildings, renovations for school consolidations	20	funded
Teacher/principal comparability pay increases	36	unfunded
Emergency repairs to facilities	10	unfunded
Cuts in central administration & school closings -- savings	-(5) M	enacted
	=========	
TOTAL	$91 M	

Local school programs already funded in next year's budget include more support for summer school, athletics, counselors, early childhood education, and school supplies and materials. Also funded are curricular reforms, school equipment, and $20 million for basic building maintenance and renovations for school consolidations. [Appendix 2 details these increases]

Not funded from District resources are

- o Teacher pay increases for comparable day/comparable pay -- to give District children the same instructional time in school as suburban children, while paying teachers and principals what they could get if they moved to a suburban system. $36 million would bring D.C. teacher salary scales to the average in the suburbs.
- o Sufficient funding to repair the dilapidated and dangerous facilities in which teachers and children work. $10 million would increase total repair and maintenance funding to $32 million -- compared to a total backlog of $150 million.

COPE has recommended financing the reform plan with a 50/50 combination of District and Federal revenues -- because of the strong Government interest in effective local education that would prevent intolerable levels of crime and of young people unqualified to fill available jobs.

The City Council has appropriated District revenues for school reform totalling $50 million less $5 million in cost cuts. Parents United and COPE -- with the support of the District Government -- urge that Congress provide the D.C. Public Schools the unfunded $46 million earmarked for salary increases and emergency building repairs.

TEACHING IN THE DISTRICT OF COLUMBIA

Teachers in the District of Columbia schools have to be dedicated to helping children who need it most, for other incentives are limited. Student failure is higher than elsewhere. The majority of the typical teacher's students are children "at-risk" from poverty and its consequences. Many live with a single, working parent. Some live in areas where they can expect to see and fear drug dealing, assaults, even murders. A number may come to school hungry, rarely see a doctor, live in crowded, run-down housing or even a homeless shelter.

Supplies and equipment in the teacher's classroom are often hard to come by -- paper, science equipment, workbooks, even soap and toilet paper. She has to prepare handouts -- only semi-legible -- on an old ditto machine. Security is a worry.

The typical D.C. school suffers the problems of older buildings not properly maintained: windows that fall out, water damaged walls, falling plaster, and holes in the floor. Heat may be stifling or non-existent. Some bathrooms are disgusting. There are missing or broken fire doors, and most exterior exits are barred or chained from the inside.

A qualified, effective teacher -- or principal -- need not deal with this level of frustration and discouragement. In most Washington suburbs teachers work with many more high-achieving pupils in bright, well-maintained buildings with ample supplies and modern equipment -- and at the same time receive a higher salary.

THE NEED FOR BETTER TEACHER SALARIES: COMPARABLE DAY-COMPARABLE PAY

FACT: Teachers and principals in the District of Columbia are paid less than their counterparts in the metro area.

Public schools in the District of Columbia have increasing difficulty in recruiting and retaining good teachers. Why? Because D.C. teacher salaries are considerably lower than those in the surrounding metro area.

Furthermore, principals cannot be selective because the applicant pool of qualified teachers is small relative to hiring demand. The COPE study found that recent recruiting and hiring efforts by the D.C. schools generated a total of 1196 applications for 530 positions. While the District had only 2 applicants for each teacher vacancy, the Prince George's County schools had 7, and Montgomery County schools had 13.

Annual Teacher Salaries
Washington Metropolitan Area
1990-1991

School System	Minimum	Maximum
D.C.*	$23,305	$48,175
Fairfax	$25,000	$53,564
Arlington	$25,757	$57,128
Montgomery**	$26,995	$54,626
Alexandria	$26,300	$55,915
Prince George's	$24,500	$49,284

* D.C. salaries are applicable for the 1990-1991 school year until a new collective bargaining agreement is reached between teachers and the school district. Next year's budget currently has no funding for a salary increase.

** Montgomery County salaries assumed to reflect 5.2% increase funded by the County Council. Actual raise is likely to be 6%, or minimum teacher salary $27,201 and maximum teacher salary $55,042.

Source: Survey of school systems

Annual Principal Salaries
Washington Metropolitan Area
1990-1991

School System	Minimum	Maximum
D.C.*	$44,880	$67,360
Fairfax	$46,776	$80,008
Arlington	$52,743	$83,842
Montgomery	$59,252	$82,284
Alexandria	$45,289	$73,617
Prince George's	$55,125	$74,550

* D.C. salaries are applicable for the 1990-1991 school year until a new collective bargaining agreement is reached between the principals' union (Council of School Officers) and the school district. Next year's budget currently has no funding for a salary increase.

Source: DCPS

FACT: Extra-curricular programs in secondary schools depend on faculty sponsorship. However, faculty sponsors in the District are paid only a fraction of the stipends given to sponsors in other suburban districts and many receive no stipend at all.

Consequently, extra-curricular activities like school newspapers, debate teams, science clubs, theatrical and musical events are limited and most students do not participate. Resources and support for these programs are virtually non-existent. Students do not have the opportunity to discover their natural interests and talents or to keep themselves busy.

FACT: Schools have difficulty attracting qualified coaches because of low coaching salaries.

Once hired, coaches must cope with unsafe facilities, inadequate and out-dated equipment, and limited assistance. Many talented athletes are recruited into private schools or move to suburban school districts. Most students who remain in the system choose not to go out for sports, losing the opportunity to develop the physical skills, self-discipline, and confidence that accompanies participation in athletics. These students do not learn to appreciate the merits of teamwork and competition. Finally, the student body does not gain the sense of school pride which accompanies a successful athletic program. Although basketball thrives, both football and baseball are near extinction.

High School Coaching Stipends in Washington Area

Sport	Arl.	Fairfax	Alex.	Mont.	P.G.	D.C.
Football	$4,169	$2,491	$2,736	$2,620	$2,090	$1,450
Wrestling	$3,127	$2,347	$2,498	$3,570	$2,090	-----
Gymnastics	$2,526	$1,699	------	$2,070	------	-----
Basketball	$3,127	$2,491	$2,736	$3,540	$2,090	$1,200
Baseball	$3,127	$2,347	$2,498	$3,540	$2,090	$1,200
Softball	$3,127	$2,347	$2,498	$3,340	$2,090	$1,200
Track	$3,127	$2,347	$2,736	$2,680	$2,090	$1,200

Source: "The Washington Post", Thursday, February 9, 1989.

FACT: District children have the shortest instructional day in the Washington area

Currently, District teachers are required to be at school for seven hours a day, including a duty-free lunch. In contrast, teachers in the rest of the Metro area work a 7 1/2 hour day. The additional 30 minutes is devoted to classroom time.

Principals throughout the District, when polled, have made creative as well as practical proposals for utilizing additional time. Among their ideas -- a longer instructional day for students, extra tutoring and enrichment programs, remediation programs for slow achievers, study halls, SAT classes, joint school/community improvement projects, and staff development programs.

Student's Instructional Day
Comparative Length of School Day
(lunch, recess excluded)

SCHOOL DISTRICT	ELEMENTARY	SECONDARY
D.C.	5 hours	5 hours
Fairfax	6 hours	5 h. 50 m.
Arlington	6 hours	5 h. 43 m.
Montgomery	5 hours	5 h. 50 m.
Alexandria	5.5 hours	5.5 hours
Prince George's	6 hours	5.5 hours

Deficit in Instructional Time for District Students over 12 Years

Fairfax	2.0 school years
Arlington	1.8 school years
Montgomery	1.4 school years
Alexandria	1.2 school years
Prince George's	2.2 school years

* The school year for D.C. students is 180 days; for suburban students between 180 and 185.

RECOMMENDATION: Pay District of Columbia teachers and principals salaries comparable to those of teachers and principals in the surrounding metro area.

RECOMMENDATION: In exchange, increase the teacher work day by half an hour, to match that in the suburbs, thereby permitting District students a comparable instructional day.

RECOMMENDATION: Increase stipends for faculty sponsors of extracurricular activities and for coaches to levels paid in the suburbs.

Bargaining for the Teachers Union Contract 1990-1993

Collective bargaining negotiations have just opened for the teacher contract for the period October 1, 1990 to September 30, 1993. Four principal opening demands of the school system are:

- Longer teacher work day
- Return to the Superintendent of final authority over the teacher evaluation system
- Longer teacher work year
- Union waiver of contract clauses impeding implementation of school based management plans in individual pilot schools

The $36 million that the system is seeking for increasing teacher and principal salaries will suffice to make them comparable with salaries in the average suburban school district. To match the highest paying suburban district would cost $57 million.

In recent years, the school system and the teachers' union have resolved their bargaining differences at the expense of the children. Neither believes (on the basis of experience) that the City will fund comparable pay, so in exchange for taking low salaries, teachers get a short required work day and an ineffective evaluation system.

A credible commitment to comparable pay is vital to obtaining an effective teacher evaluation system and a full instructional day for D.C. children.

BUILDINGS: DILAPIDATED AND DANGEROUS

FACT: Faculty work and students attend classes in poorly maintained school buildings and unsafe facilities. Equipment and labs are inadequate.

Consider the conditions [Appendix 3]:

1. The Fire Department found 4,334 fire code violations in inspections of 94 schools during 1989, an average of more than 45 violations per school. (The other half of the schools were not inspected last year.)
2. Children go to class in rooms without heat.
3. Students and faculty have been injured when ceiling tiles, plaster, and windows have fallen as the result of leaky roofs and crumbling window frames.
4. Children eat lunch in cafeterias and food is prepared in areas plagued by falling paint. Some peeling paint is lead based.
5. Bathrooms have non-functional toilets and sinks, stalls without doors and pools of water standing on the floors.
6. Children have stepped on used hypodermic needles left by drug addicts using the playgrounds as "shooting galleries."
7. Students play basketball and volleyball on gym floors which are worn, water damaged or buckling. Spectators sit on freestanding bleachers without side rails. Athletes cannot shower after competitions because the showers are inoperable. In fact, some schools have not had working showers for more than 25 years.
8. Schools go without toilet paper, paper towels, light bulbs, and wax. COPE inspection teams even found schools making their own soap.

Working conditions for both students and faculty have a direct relation to achievement and motivation, as well as health and safety. Conditions like these detract from overall educational goals and raise serious concerns of basic safety.

RECOMMENDATION: Appropriate $10 million dollars devoted to facility emergency repair and maintenance.

SOME FREQUENTLY RAISED CONCERNS

D.C. Public School Enrollment and the Budget

As the District has lost population over the past few years, the public schools have lost students. When this fact was revealed in mid-February, the City Council responded by cutting the school budget request. The amount of the cut was calculated to reduce enrollment-driven categories proportionately and to require additional administrative cuts. Thus the FY 1991 budget has already been cut to reflect the loss of students.

Parents United was both disappointed and angry at the system's mismanagement of the pupil counting process and its issuance of misleading numbers. We so stated in public testimony before the Council and the Board of Education.

The school system has just completed an internal audit of the history and causes of these problems. Some findings of that audit in brief:

- The introduction of automated enrollment reporting in 1987 and the subsequent collection and preparation of figures was seriously mismanaged and resulted in unreliable figures for school years 1987-88 and 1988-89.
- School officials corrected some of the obvious errors in January 1989 but never reported this, continuing instead to use and disseminate a total enrollment figure known to be far too high.
- The Superintendent and Board members were aware that fall 1989 figures were far lower than projected when the budget request was submitted, but withheld that information even when asked by the City Council.

Parents United has analyzed a mass of enrollment data from alternative sources and found [Appendix 4]:

- No evidence of deliberate inflation by individual schools. Principals often reported figures by hand lower than the erroneous official computer figures. Mistakes occurred on the low as well as the high side, and many are so gross and obvious that deception could not have been intended.
- Enrollment decline has been spread over several years. It has been concentrated in secondary schools and in neighborhoods most impacted by drugs and crime.

We appreciate the fact that the school system has carried out and accepted such a candid and highly critical internal audit. Parents United will continue to monitor enrollment facts and also the implementation of the recommendations of the audit.

Other Concerns

Q: Doesn't the school system need to close some buildings?

A: Yes. The Board of Education has just voted to close 4 neighborhood schools in June 1990 and 3 more in the next year. They have started the legal process to study additional neighborhood schools for closing next year, and are now considering disposition of a number of buildings housing students in citywide programs or offices.

Q: Doesn't the school system need to cut central administration?

A: Absolutely. The Superintendent has sent termination letters to about 50 central office employees with temporary status, and is considering eliminating about 100 central office positions currently vacant.

Parents United and COPE approve these actions, but believe that the system can and must do more to shift resources into local schools and instruction. Both organizations will continue monitoring and pressing for such action.

Q: Doesn't the District have the highest paid school staff in the nation?

A: No. The average salary of D.C. teachers is relatively high because almost 60% have been teaching in the system for many years and make the maximum salary. But teachers with the same experience and qualifications make more money in the D.C. suburbs. Suburban principals received $5,000 to $15,000 more than District principals last year.

Also, the District's figures are skewed when compared to those of states. The District, a totally urban jurisdiction, has higher average costs generally compared to States, which have a mix of urban, suburban and rural areas.

THE VEHICLE FOR CONGRESSIONAL FUNDING EARMARKED FOR D.C. PUBLIC SCHOOLS

Parents United agrees with the District government that the annual federal payment is unrealistically low. [Appendix 5] We are the most heavily taxed people in the region and losing population able to pay, at the same time that:

- the costs of prisons, courts, police and welfare are soaring
- inflation has been higher in the Washington metropolitan area than in the nation as a whole
- the federal share of the District's budget has decreased steadily -- from 25% in 1977 to 13% next year
- the dollar amount of the federal payment has been stagnant for several years, and is less than it was in 1987:

What the Federal Payment Would Be If Adjusted for Inflation
($$ in millions)

Fiscal year	DC oper'g budget	Federal payment	Fed pay as % of DC budget	Fed pay adj'd for inflat'n*	Differ from actual
1987	$2,426.1	$444.5	18.3%	$444.5	$ -
1988	2,593.7	430.5	16.6%	462.7	32.2
1989	2,813.7	430.5	15.3%	484.5	54.0
1990	3,061.1	430.5	14.1%	503.9	73.4
1991	3,331.6	430.5	12.9%	524.0	94.5

* CPI increases 1987-1989: 4.1%, 4.7%; assumed inflation 1989-1991: 4.0%, 4.0%

Thus, if the federal payment had kept pace with inflation in the past few years, there would be an additional $94.5 million available for public education next year.

We believe that most members of Congress, like President Bush, are honestly unaware of how little the federal government pays today. But we are aware of the potential difficulties in changing the payment. A special commission, headed by Alice Rivlin, former director of the Congressional Budget Office, is now studying potential reforms for the City's management and fiscal situation just as COPE has already done for the D.C. Public Schools.

Although we desire an increase in the federal payment, we believe that children need not and should not be held hostage to that process. We simply urge that Congress provide in whatever form it finds appropriate the funding for District teacher salaries and for making District school buildings safe and habitable.

[Appendix 2]

DCPS FY 1991 OPERATING BUDGET
AS REVISED FOLLOWING CITY COUNCIL APPROPRIATION

	School based		Central office		Total	
	$$	Pos	$$	Pos	$$	Pos
FY 1990 Base budget					$502,346.0	10,619
Stay-even costs (transferred & underfunded base costs)	$ 4,675.0	-			$ 4,675.0	-
For COPE Recommendations						
Early childhood education	3,110.6	-			3,110.6	-
Schools of Distinction	1,602.9	2			1,602.9	2
Upgrade curriculum & instruction						
Comer program pilot	308.9	10			308.9	10
Elem'y science labs	806.6	12			806.6	12
Elem'y art & music tchrs	1,000.0	32			1,000.0	32
Bilingual tchrs & aides	1,000.0	25			1,000.0	25
Afro-centered curriculum			750.0	2	750.0	2
Values education unit			750.0	-	750.0	-
Mediation/conflict reso'n	354.0	-			354.0	-
School supplies, texts & equipment	2,491.9	-			2,491.9	0
Guidance counselors	760.9	25			760.9	25
Special needs programs	1,057.1	1			1,057.1	1
Educational technology	2,529.9	36			2,529.9	36
Summer school	2,000.0	-			2,000.0	-
Athletics	2,369.0	14	631.0	10	3,000.0	24
Parent involvement unit			291.2	8	291.2	8
Management information (special educ)			802.7	-	802.7	-
Subtotal COPE	$24,066.8	169	$3,224.9	20	$27,291.7	189
Other						
JHS pre-vocational shops	750.0	-			750.0	-
Special education programs	703.3	8	50.0	-	753.3	8
Student services/govt			173.0	-	173.0	-
Adult education	200.0	-			200.0	-
Cable TV			250.0	-	250.0	-
Legal svs attorney			60.0	1	60.0	1
Subtotal Other	$ 1,653.3	8	533.0	1	$ 2,186.3	9
TOTAL Increases	$25,720.1	177	$3,757.9	21	$29,478.0	198
Savings	NOT SPECIFIED				-$5,200.0	
GRAND TOTAL					$526,624.0	10,817

School based as % of total increases: 87.3%
COPE as % of total increases: 92.6%

[Appendix 3]

BUILDINGS: DILAPIDATED AND DANGEROUS

The safety of children is being compromised because of obsolete, inadequate, inappropriate and unsafe equipment and facilities. Failing to address these deplorable building conditions exposes the City to a serious risk of significant legal liability if these problems are not remedied immediately. The law firm of Steptoe and Johnson is determining whether judicial redress is available.

- The immediate backlog of deferred maintenance amounts to approximately $150 million.
- Several schools have no heat in entire wings of their buildings. As a result, children are forced to wear coats and gloves indoors every day during the winter.
- At least 39 District schools have significant boiler problems. These boilers violate the City Code, which requires boilers to be "safe and fit for operation," D.C. Code §§ 1-1007, 1-1013.
- Children have sustained burns from exposed hot pipes and radiators or improperly functioning thermostatic controls.
- Many schools are violating the fire code--stairwells are blocked, fire doors are missing, open or broken, and fire extinguishers are missing. 12 DCMR ES §§ 303.7.
- Sixty-seven percent of the schools have leaking roofs. Crumbling and falling plaster has resulted in students being struck.
- Cracked and broken windows and window frames plague 70% of the schools, a violation of the Building Code. 12 DCMR ES § 302.4. Students have been injured when dilapidated windows have fallen in on them.
- Many classrooms haven't been painted in eight years.
- Electrical systems in many schools require significant upgrading -- some pose direct and immediate danger to children.
- In the bathrooms of a number of schools, stall doors are missing, toilets are non-functional, there are pools of water on the floors from leaking toilets, and water fountains do not work.

(These facts were compiled by the law firm of Steptoe and Johnson. Special Report on the D.C. Public School Buildings and Grounds and Notice of Potential Legal Liability. December 19, 1989.)

DCPS: PHYSICAL BUILDING CONDITIONS

Comparison 1986/1987/1989

Condition	Percentage of schools with condition 1986	1987	1989*
Roof leaks	82%	61%	67%
Plaster falling or threatening to	79%	76%	80%
School floors need repairs	82%	77%	n/a

DCPS: PHYSICAL BUILDING CONDITIONS--Continued

Comparison 1986/1987/1989

Condition	Percentage of schools with condition 1986	1987	1989*
Window frames need work	83%	74%	70%
Cracked & broken windows	68%	59%	67%
Outside doors do not open or shut properly	83%	73%	83%
Fire & classroom doors missing or deteriorated	n/a	75%	70%
Electric wiring needs:			
A lot of work	n/a	14%)	)
Some work	n/a	44%)57%	)64%
Plumbing & drains need:			
A lot of work	n/a	21%)	)
Some work	n/a	58%)78%	)96%
Elementary playgrounds:			
Playground surface problems	n/a	70%	81%
No equipment	30%	21%	)
Not enough equipment	)	67%)	)75%
Equipment needs repair	)80%	57%)79%	n/a
Secondary schools with insufficient number of functioning lockers	38%	49%	33%
Secondary school gymnasiums:			
With floors that need work	63%	77%	87%
No showers that work	n/a	17%)	)
Only some showers that work	n/a	53%)70%	)63%
No gym lockers that work	n/a	13%)	)
Not enough lockers that work	n/a	61%)74%	)56%

*1989: 30 school random sample: 21 ES, 6 JHS, 3 SHS
1986, 1987: about 115 schools (two thirds of all schools)

RATINGS OF PHYSICAL EDUCATION/ATHLETIC FACILITIES IN SECONDARY SCHOOLS

	Excellent	Good	Fair	Poor	None*
Playing fields:	1	5	10	7	4
Track:	-	1	1	8	17
Stadium seating:	2	1	1	4	19
Gym floor:	4	2	13	9	-

Average ratings of facilities at schools that have them:

Playing fields: Fair
Track: Poor
Stadium seating: Fair
Gym floor: Fair

*All schools without their own facilities are junior high schools

(20 of 27 junior highs responded, and 8 of 11 comprehensive senior highs)

[Appendix 4]

SCHOOL SYSTEM ENROLLMENT DECLINE: WHAT HAPPENED AND WHAT ARE THE CONSEQUENCES?

As discussed in our article on the school budget above, the public was startled to learn in mid-February that school enrollment had not stabilized at 88,000 or 89,000 students as previously thought, but is only about 81,000 pupils this year.

Like COPE, the City Council, and others concerned with our public schools, PARENTS UNITED was both disappointed and indignant that the Superintendent and the Board withheld this information long after they became aware of it and almost until the end of the budget process.

Revelation of the enrollment decline has also increased pressure on the Board to cut central office costs and reduce the number of school buildings it maintains.

Unquestionably, the handling of the matter cost students and teachers budget resources they would otherwise have had. Some Council members publicly demanded large budget cuts, and others have stated that the loss of the teacher salary money was directly related to the schools' having given the Council "bogus numbers."

On the other hand, in balancing the budget the Board acted to cut administration and protect instruction. Moreover, the Board is taking specific new steps to reduce administrative overhead and is on schedule with the school closing process.

Finally, the school system is acting to have enrollment figures for the past few years audited by independent professionals.

PARENTS UNITED is analyzing a mass of enrollment information from the last three years and will report its findings shortly. The evidence so far available indicates that:

1. Previous misinformation on enrollment results largely from mistakes in using new automated reporting systems -- rather than from any deliberate inflation of figures.

2. Many of these errors should have been spotted and corrected in the central offices, but were not.

3. Errors masked an overall decline spread over the last 3 years.

4. Decreases were greatest at junior and senior high schools. Population statistics predicted some decline, but not as much as occurred, and it is uncertain whether these students have left the City or whether the drop-out rate has increased.

5. Decreases at the elementary level were smaller, but totally unexpected because D.C. birth rates have been rising since [illegible]. The children appear to have left the District altogether.

6. Enrollment decline is uneven. In some parts of the City and in some individual schools enrollment has actually increased significant-

[Appendix 5]

BACKGROUND INFORMATION REGARDING THE FEDERAL PAYMENT

The District of Columbia differs from most cities because of it's unique relation to the federal government. The federal government approves the District's budget and has line-item authority to change the budget. The federal government also prescribes explicit federal policies applicable to D.C.

Because of the federal government's presence, the District loses substantial amounts of revenue. Prohibitions on commuter taxes, congressionally established exemptions for foreign and diplomatic property, and federal ownership or use of about 42 percent of all real property result in a loss estimated at about $1.8 billion at the 1990 tax-year rates. Revenues are lost because of the lack of taxable business income reflected by the predominance of the public sector in the local economy. The federal payment is just one means for reimbursing the District.

Every other city in the United States works within a state and local structure. Responsbilities of the D.C. government include a full range of public services normally provided by city, county, special district, and state governments. Some of the nonmunicipal services the District provides include elementary, secondary, and higher education, public assistance, public health, hospitals, courts, correctional facilities, motor vehicle registration and licensing, insurance and public utility regulation, employment services and unemployment compensation.

Additionally, the District of Columbia imposes significant taxes upon it's citizens. A 1988 study of tax burdens in the District compared with total state and local tax burdens of the largest city in each state showed that the District ranked 10th to 12th highest, depending on income level. At the $25,000 income level, the District's tax burdens were 20.9 percent higher than the 51-city average, and at the $100,000 level, the District's tax burdens were 31.1 percent above the average. Source: D.C. Department of Finance and Revenue in the Office of Economic and Tax Policy.

D.C. and the federal government provide each other with different services. Examples are the Smithsonian's Anacostia Neighborhood Museum and crash coverage for all presidential and vice presidential helicopter landings and takeoffs. Many jobs in the District can be attributed to the federal government as well.

Senator **Adams**. Ms. Levy.

Ms. **Levy**. Thank you. My name is Mary Levy. I have been a parent of children in the D.C. public schools for the last 15 years. I have worked with Parents United doing research on the school system for 10 years, mostly as a volunteer, but lately I have been doing it full time. So I have had a lot of time to gather information and data.

I have summarized what we consider to be the most important information on this year's plan in our white paper which is entitled, "Our Children, Our Future", and what I am going to do is just give you a very quick guided tour through that.

I do want to emphasize, by the way, that our experience comes not only from doing research, but because we do have children in the schools.

Senator **Adams**. I see and I will put both of your statements in the record in full.

I read your statement completely. That was why I took a second there to be gone.

Do you wish your statement put in in full and summarize it, or do you wish to read it?

Ms. **Levy**. Well, I am not going to read it. That would take quite a while.

Senator **Adams**. Without objection, both statements will appear in full in the record as though given.

Ms. **Levy**. We started out this year our white paper as "Our Children, Our Future", which is, of course, the title of COPE's report, because we fully embrace the COPE plan, the COPE recommendations and are deeply grateful to the committee, its leadership, and all of its members.

We have also done some work on our own, of course, in addition to what the committee has done and Delabian, of course, gave you a graphic description of a couple of buildings in the system.

What I want to emphasize is that this is not just the unusual anecdote. Unfortunately, the kinds of things that she described are quite typical and I have included on page 10 a summary of a great deal of work by a law firm that is working for us pro bono that has reviewed 3 years worth of injury reports from the school system and 5 years worth of fire department inspection reports, as well as the COPE reports.

These kinds of things are records based and I think it is important to understand that.

I have also included at the beginning of my section on teachers a description of what a school is like because that is what we are asking people to go into and we think they probably need a higher salary if they are going to work in such conditions.

I do want to emphasize that what I described in this section is simply typical. It is not a bad description of Woodrow Wilson High School, where I happen to be the PTA president, and Wilson is far from the worst school in the city.

The school system talked about its need for additional teacher salaries—for increased teacher salaries as has the Committee on Public Education. Something that they scarcely touched on, which I think you would probably want to be more aware of, is the demands which they have made on the teacher's union in the negotiations which are now opening. They are just starting to negotiate now for a contract which will cover the next 3 school years.

They have asked for four principal concessions. We think they are all important, but we are especially emphasizing two. One is that they are asking the teachers to give one-half hour longer teacher day. We include in our paper a table that shows the difference between the school day of children in the District of Columbia and the school day of children in the suburbs.

The numbers which we have given which show that the District children have 5 hours a day versus 5½ to 6 in the suburbs, exclude the time for lunch and recess. Our children have one-half hour to 1 hour shorter instructional time each day in school.

What we want to see is a comparable day for comparable pay and we think this is very important. The other very important demand that the school system is making is that the final authority over the teacher evaluation system be returned to the superintendent. Right now we do not have an effective teacher evaluation system. Even the most capable and dedicated principals have a great deal of difficulty in dealing with teachers who cannot or will not perform.

That system is set up by a bilateral group, equal numbers from the union and from management and that in effect gives the union a veto power over the evaluation system.

We are extremely pleased that the school system has asked for this. What we do not want to see happen is what has happened in previous years. The city has been short on resources and so a compromise has been reached that is at the expense of the children.

Teachers get less pay than teachers in the suburbs and they also work less, so that the children have a shorter instructional day and they get a relatively ineffectual evaluation system. We think this is the wrong place to make the trade. What we want to see is teachers paid as well as those in the suburbs and giving the children the same instructional time.

We simply cannot afford this compromise anymore and that is why we are so concerned with having at least $36 million up front.

Normally one does not do that in collective bargaining, but the history is such that nobody really believes that the money is going to be there. So why not compromise? Let the teachers work the shorter day. If $36 million is there we will know that we can continue to demand the comparable day and a much better evaluation system.

I want to emphasize, by the way, that $36 million does not cover the total cost of pay raises. It will only cover the cost for teachers and principals, no cost-of-living increase for anybody else and it will get them up to the average suburban salary level, not to the top.

It would cost $52 million to get our teachers and principals up to the level of the top salaries paid in the suburbs.

In answer to a question you raised about the seniority of the work force, 58 percent of the teachers in the bargaining unit are at the maximum salary level. That is a very high proportion and that is part of the reason it costs so much to raise salaries. We hope these people, many of them, will retire over the 1990's, but people have not been retiring as soon as they reach eligibility. They have been holding out and they are allowed to hold out for quite a while.

Part of the reason for the relative seniority of the work force is that when we had a fiscal crisis in 1980, the system fired everybody with less than 10 years of seniority. So we have a great big gap in the middle.

I would like to conclude with a couple of comments on enrollment. I have been studying enrollment rather thoroughly for some months now, particularly after the revelations last February of the drop, and I have looked at alternative sources of enrollment information school by school. I have a great deal of information, which I would be happy to share with you and your staff if you would like it.

I would simply make a couple of comments on my own findings. First of all, the enrollment decline has been gradual. It did not all of a sudden happen in this last year that we lost 7,000, although we did have a bigger drop last year than in either of the two preceding years.

Yes; we are losing population, but it must be out-migration. The drop in elementary school enrollment was totally unexpected because ever since 1980 the birth rate has been going up. That means we really are losing children who are already born.

I mapped out enrollment decline based on my corrected school figures and what I found was a very high rate of correlation between enrollment loss and the neighborhoods in the city which are most heavily impacted by drugs and by crime.

It is my belief that we are losing families, those who are able to go from those areas, because they wish to get their children out of those circumstances.

I do not believe this has been reported in the paper that they are pulling their children out of the schools because of drugs and crime.

Our schools are pretty good in terms of security. Our system does a pretty good job of that and I think children all over the city are comfortable inside the schools. What goes on outside is, of course, a different matter.

That concludes my statement.

Senator ADAMS. Thank you, Mrs. Levy.

Senator Kerrey, welcome. We are pleased that you are here. Ask any questions that you would like of the panel and I will defer to you.

Senator KERREY. Well, I had discussions yesterday with Dr. Jenkins. I have not had the opportunity to speak with Parents United.

I would just tell you briefly, as I told Dr. Jenkins, the question of the overreporting of enrollments was a problem for me earlier. I stilll have some concerns. I have some concerns as well, about the political environment in the District of Columbia today. I think that climate makes it difficult for us to focus on the children themselves. I think we have to struggle to do that.

Having said that, I support the need to bring the inner city school up to the standards of the suburban schools. The central question that you ask is, do you want schools in the District of Columbia to be as good as the schools where most of our children go? And the answer ought to be, yes. It certainly is in my case.

One of the things that I am sure you all have heard recently is the debate about not just school choice, but the question of using vouchers in inner city schools.

I listened to testimony of Polly Williams from Milwaukee who was in town when the Brookings Institution announced the Chub and Lowe report.

I was not and have not been in the past terribly impressed with the arguments in favor of vouchers, but I must tell you I was very impressed with the arguments made by Polly Williams who comes as a parent, first of all. She comes and says, "I am a parent. Understand that I am not an educator. I do not pretend to understand all of the ins and outs, but my concern here, she says, is as a parent."

The one thing that she says that I think is inarguable is that her successful effort in the Wisconsin Legislature has moved the inner city schools to the top of the Milwaukee School Board's list. She has been successful in reversing the agenda with this action.

I would be very interested to know what your personal evaluation is of what Polly Williams has done in Wisconsin, particularly for Milwaukee and whether or not you think it has any merit.

Ms. RICE-THURSTON. I cannot speak specifically about what she has done in Milwaukee because I do not know what that is. I will tell you my sense of vouchers.

There are somewhere around 81,000 children in the D.C. public schools. Every parent would want their child at Sidwell Friends. That is $8,000 a year at least. That is $648 million in tuition alone. That says nothing about whether there is a space for every one of those children. It says nothing about what happens when the difficult children in our school system need schools that would, one, not want them; two, expel them, which is something that our school system does not tend to do.

No matter what, we have to have public schools. Our question should never be whether we can voucher kids out of them or anything else. It has to be how will we as a country do what we promised, provide through the public a high quality of education.

I put it in those terms because it is not enough to say that every person would have a choice if the choices are not out there. There are not 8,100, just for the District students alone, private school spaces and when you talk about the population the District has you are not talking about children that every private school wants. So we have to provide a good public school system.

We want public schools to be the option people choose. I am 45. When I grew up, nobody went to private schools. If you did, you were an anomaly.

I want our country to go back to that. I want people to believe that the egalitarian idea works; that most children go to school with different kinds of kids and they learn—I grew up in Denver, Japanese kids, black, Hispanic, white, Jewish, whatever. You do not get that if we talk about private selective schools and that is primarily what people are talking about when they think about private schools and personally, it is just a cop out in a national sense of abandoning the public system.

Mr. WEST. Senator, if I may, I am Togo West from COPE. I read with interest the editorial or commentary in yesterday's Wall Street Journal that took the superintendent of public education in

Wisconsin to task for, as the editorial put it, standing in the schoolhouse door. Likened him to a couple of Deep South Governors.

An interesting discussion. My reaction is slightly different and that is this, vouchers are unfortunately a sign of the very real same concerns when they are pushed by the person who initiated them in Wisconsin as the concerns of parents. Every parent wants the best for that parent's kids, wants the best in education.

Also, parents of students who feel that their students are confined to a public school system that is not satisfying their needs, that is not equipping them for a chance out there in a very difficult world may well say, I will use the voucher as a way of pushing the system.

So I think one thing is that vouchers are a sign of the very real concerns of the time about the things we are talking about. What kind of education, what kind of delivery is happening in the public schools for our children?

I think that every public school system has to be concerned and those of us who support public education about the very real appeal that a voucher system could have to a parent who finally feels not empowered, not able to impact the leaders of her or his school system, not able to do for that child what is necessary, and that is to get the attention of the education authorities to improve the education that is being delivered.

If that is true, if vouchers are a sign of that concern or at least one explanation of that concern, I do not dismiss the possibility that they have other supporters with other purposes. At the same time, we believe, as did our colleague here from Parents United, that they have the capacity, if adopted, to destroy a public school system, to drain off the very parents who would be most concerned and who ought to be in there participating and I think they carry a very serious message for those of us who are trying to do something about public education.

I read the activity of the one woman who commenced the voucher effort out there as a very real expression of the kind of frustration that we see in many neighborhoods in the District and elsewhere. I think our answer has to be to take efforts like Parents United, like our school board and our superintendent, like COPE's and try to be able to say, the voucher system not only will not work because it cost too much, but it also will not work because we have already established the best way of serving the needs of our citizenry and of our country and that is to make the public education the best education available to the broadest number. The finances suggested, vouchers will not do it.

Senator **Kerrey**. Well, let me make it clear, what Polly Williams puts out is a challenge to people like me who have opposed vouchers for all the arguments that you have listed. The central part of her challenge is that you, being me, are saying that parents do not know what is best for their children.

What was coming to parents, at least in Milwaukee for Polly Williams and other parents who cooperated and worked to get that Wisconsin law passed, was parents do not have the capacity to make decisions about their children; they give their children to the public schools and then the schools make the decisions.

I mean that is almost verbatim what Polly Williams has said and she is quite emphatic on it. As I said, I listened to her presentation and the challenge is not to you. The challenge is to me. She is saying what you are doing, Senator Kerrey, in your opposition to vouchers is precisely the opposite of what is needed.

She is saying that in order to accomplish the egalitarian objectives that you say that you want to accomplish you must give us power and the only way we have the power is if the benefit flows directly to us and we control the decision about where to use it, I am curious as to whether or not again, you agree—the question is not really asked to determine whether or not you support or oppose vouchers, but whether or not you have argued through some of the arguments that Polly Williams and others have made.

Ms. RICE-THURSTON. I would like to throw out another possibility, which is this, if you offered vouchers in northern Virginia right now, I bet every one of the parents in northern Virginia would have as their first choice Thomas Jefferson Technical High School because we have given to those kids the quality of education that they could not get in Sidwell Friends.

If we would do that in every public school system, create magnificent schools, fine, give them an option of a magnificent public school or magnificent private one, but I can assure you if the public put its mind to it, the private schools could not touch us. They could not.

Our problem is that we have not gotten the finances it takes. It is a little bit like affirmative action.

Senator KERREY. Even if we give you the money that is requested in this year's budget, are we giving you the financing that it takes to achieve that equality?

Ms. RICE-THURSTON. You are not.

Senator KERREY. Well, that——

Ms. RICE-THURSTON. What we are asking for—unfortunately, has not come—our school system has never presented to our council the budget that it would take to give my son, Edward in third grade, and my son, David, who is about to go into seventh grade, the kind of education that is going to make them the brilliant people they are capable of being and that is my children. What is it going to take for Michael who lives on Stanton Road, whose parents have very little education is a heck of a lot more.

What I wish that you, our Senators, would do is help our President be the education president because when we have those kinds of schools, vouchers, fine. I will take them because people will want our public schools.

But right now if the solution is vouchers, then basically you are saying we are not going to give you good schools. So you are on your own. And you know what happens to the least of us when we are put on our own, they are going to sink.

Mr. WEST. Senator, the other side of the voucher issue and I think the one you also raised is the accountability, the desire by the parent to feel that they have a say in the decisionmaking.

You know, in the District of Columbia we have got a leg up on the accountability question in that we have an elected school board. Parents get to go out there and say who they want to run it.

The other side of that leg though is the one that was addressed by the chairman and Terry Golden earlier. That is the whole question of who runs the system and how then can a parent, a citizen impact on those decisions that they feel they are not able to make.

I think that goes into the issues of a separate taxing district where parents and taxpayers vote with their feet on specifically who gets the money. Those are issues we have discussed within COPE and certainly they get discussed within the education community, I do not think we have yet resolved here.

The answers to the questions you have raised is, how do you make the parent and everybody else in this city who has a stake in the school system, that is all of us who pay taxes, all of us who are going to live here with the graduates of that system, all of us who are going to work with them, how are you going to make them feel that they have a say, a say that counts in what is happening, (*a*) with their children; (*b*) with their taxpayer dollars. I do not have those answers.

Ms. LEVY. Could I comment that there is one thing we have not discussed, although, as we know, do not like vouchers, we do advocate choice within the school system and that was, in fact, an important part of the report of the Committee on Public Education, was giving parents choice among schools within the public schools. That we are very much in favor of and we have seen some results from it.

My children went to elementary schools where there was a choice among four elementary schools and people sorted themselves out and it improved the quality of all of them.

We have a semi-open enrollment——

Senator ADAMS. Where did your children make choices between?

Ms. LEVY. It was in the southern part of ward 3. They had a choice among——

Senator ADAMS. You are talking about Mertz, Lafayette, Eaton?

Ms. LEVY. No; I am talking about Hyde in Georgetown, Mann in AU Park, Stotart in Grover Park and Key in the Palisades.

Senator ADAMS. Thank you.

Ms. LEVY. And we have semi-open enrollment among high schools and there is a waiting list of students to get into Woodrow Wilson High School. People do make those choices and we would like to see more of it and we strongly advocate the schools of distinction concept that the Committee on Public Education is really working to get implemented.

Senator ADAMS. Well, I thank all of you for your testimony. I particularly appreciated Senator Kerrey, because he is very interested in this, and he made a comment that I hope all of you will take to heart and think about. The movement that is coming upon all of us that have supported the public schools, had the same experience and I am sure he did, that almost no one went to private school when we were moving through the public school system. It is a sense of lack of power on the part of the parent and the fact that the place that you are offered or the places that you are offered are not sufficient, that comment is very important.

I had one child go all the way through the public schools here in the District of Columbia. I did not have all of my children go through because they collapsed. It became a complete discipline problem where he could not function in that atmosphere and so he graduated but he had to go back and be fixed up later on in a community college. He was basically reading in senior Shakespeare classes one to another Shakespeare's plays because not everybody in that senior class could read. He was 6 months behind in physics with an extraordinarily good physics teacher because nobody would make him go to class.

They did have a system for checking on it and I use to go up there and spend time, but I felt powerless because there were so many ways that he could beat the system.

What we are talking about is parents' power in the public school systems and the private school systems have never been as adequate as the public school system in terms of resources, in terms of breadth of curriculum and curriculum among all of them. They have always had problems of—well, many other problems, but we tried the amadon system here at one time and it was put out by the courts, which was within the actual school classrooms themselves.

But I just hope all of you think about it. I do not want to be giving a lecture on education. I have too many other irons I am trying to keep from burning my hands right at the moment, but those of us that have had experience in the District school system here and in the ones in our own home cities, we are having a terrible time fighting off the voucher system simply because of the problem that you mentioned, which is that the public schools have been required to accept the students that would disrupt the system and as that percentage grows to a certain turnover point, and I do not know what point that is, whether it is 25 percent, 30 percent, 50 percent, when it arrives at that point, that the teachers spend more time on discipline than they can on education, your school system then people vote with their feet. That is a fundamental problem that all of us who are parents live through. I am very lucky. I have to just now start looking at grandchildren.

CONCLUSION OF HEARINGS

But I recommend to all of you that you spend some more time on it and I want to thank you for spending the time that you have. This chairman is very grateful.

This hearing is recessed.

[Whereupon, at 12:05 p.m., Thursday, June 28, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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